CHAPTER FIVE

ZONING - LAND USE PLANNING

ARTICLE 1 - Planning Commission

5.0101 Planning Commission Created

There is hereby created a Planning Commission consisting of five (5) members, who shall be appointed as hereinafter provided, and an additional three (3) members namely, President of the City Commission, the City Engineer, and the City Attorney, who shall act as ex-officio members of said Planning Commission.

5.0102 Planning Commission - Terms, Compensation, Meetings

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

5.0103 Same: Confirmation of Appointments

The President of the City Commission shall submit to the City Commission at the next regular meeting after making such appointments, the names of persons appointed and the length of their terms and the City Commission shall, by a majority, confirm or reject such appointments. If such appointments are rejected the said President shall make other appointments for such appointees as may be rejected, which said appointments shall be approved or rejected in like manner.

ARTICLE 2 - Definitions

5.0201 Definitions

Words used in the present tense shall also be applied in the future; words used in the singular shall be also applied in the plural.

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

1. “Shall” is taken to mean mandatory; “may” is taken as permissive.

2. “Person” is taken to mean any individual, group, firm, partnership or corporation.

3. “Accessory Use or Structure” is a use or structure of on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

4. “Adult Bookstore” is an enclosed building having as a substantial or significant portion of its stock in trade, books, magazines or other periodicals which are distinguished or characterized by the emphasis on matter depicting less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.

5. “Adult Cinema” is an enclosed building used on a regular basis for presenting pictorial materials or other visual images by way of direct or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction of less than completely or opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.

6. “Adult Entertainment Center” is an adult bookstore or adult cinema, or both.

7. “Agriculture” means all land and areas used for cultivating the soil, producing crops and/or the raising of livestock. Such areas include greenhouses and nurseries.

8. “Alley” is a platted public right-of-way providing vehicular service access to the back or side of two or more properties.

9. “Amendments” are any change, revision or modification of either the text of this ordinance or the district zoning map.

10. “Animal Hospital or Clinic” is an establishment where animals are admitted principally for examination, treatment, board and care by a doctor of veterinary medicine.

11. “Apartment” is dwelling unit that is located above or to the rear of a commercial business, and is designed as a place of residence for a single family, an individual, or a group of individuals. Apartments can share a common ceiling or floor with an adjacent dwelling unit.

12. An “apartment hotel/rooming house” is any dwelling in which more than two (2) persons, either individually or as families, are housed or lodged for hire, with or without meals.

13. “Area of Special Flood Hazard” is the land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

14. "Assisted living facility" means a building or structure containing a series of at least five living units operated as one entity to provide services for five or more individuals who are not related by blood, marriage, or guardianship to the owner or manager of the entity and which is kept, used, maintained, advertised, or held out to the public as a place that provides or coordinates individualized support services to accommodate the individual's needs and abilities to maintain as much independence as possible. An assisted living

facility does not include a facility that is a congregate housing facility, licensed as a basic care facility, or licensed under chapter 23-16 or 25-16 or section 50-11-01.4. (NDCC 23-09)

15. “Aviation” refers to anything regarding or involving the operation of an airplane/aircraft, including runways and aircraft hangers, as well as, anything regulated under the Federal Aviation Administration (FAA).

16. “Base Flood” is a flood having one percent (1%) change of being equaled or exceeded in any given year.

17. “Basement” is a story of a multi-story structure which has a greater portion of its height below the ground surface.

18. “Basic care facility” means a residence, not licensed under chapter 23-16 by the State Department of Health, that provides room and board to five or more individuals who are not related by blood or marriage to the owner or manager of the residence and who, because of impaired capacity for independent living, require health, social, or personal care services, but do not require regular twenty-four-hour medical or nursing services and:

    a. Makes response staff available at all times to meet the twenty-four-hour per day scheduled and unscheduled needs of the individual; or

    b. Is kept, used, maintained, advertised, or held out to the public as an Alzheimer's, dementia, or special memory care facility. (NDCC 23-09.3-01)

19. "Bed and breakfast facility" means a private home that is used to provide accommodations for a charge to the public, with not more than two lodging units in addition to the private residence, in which no more than two family-style meals per day are provided. NDCC 23-09.1

20. “Building Area” is the portion of a lot remaining after required yards have been provided.

21. “Building” is any structure designed, or intended, for the enclosure, shelter or protection of persons, animals or property.

22. “Building Height” is 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 plat and ridge of a gable, hip or gambrel roof.

23. A “caretaker’s residence” is a dwelling unit necessary for the security and/or operation requirements of an on-site industrial use.

24. A “concentrated animal feeding operation” means any livestock feeding, handling, holding operation, or feed yard, where twenty (20) or more animal units are concentrated in an area that is not normally used for pasture or for growing crops and in which animal wastes may accumulate. The term Concentrated Animal Feeding Operation does include Animal Wintering Operations which are defined as the confinement of cattle or sheep used or kept for breeding purposes in a feedlot or sheltered area at any time between October 15 and May 15 of each production cycle under circumstances in which these animals do not obtain a majority of their feed and nutrients from grazing. Animal Wintering Operations include the weaned offspring of cattle and sheep, but it does not include: 1) breeding operations of more than twenty (20) animal units or; 2) weaned offspring which are kept longer than one hundred- twenty (120) days and that are not retained for breeding purposes.

c. Animal Unit Equivalent

Animal	Animal Units		Animal	Animal Units
Horse	1		Cattle	1
Llama	1		Alpaca	1
Mule	1		Burro/Donkey	0.5
Sheep	0.5		Goat	0.5
Miniature Horse	0.5		Pony	0.5
Chicken	0.1		Duck	0.1

25. “Conditional Use” is such uses as are allowed by special permit only. Said permit shall be granted according to provisions of this ordinance.

26. “Convenience Store” is a small retail store(s) and small service business(es) which do not employ more than four (4) person per shift.

27. A “crew camp” is specifically designed to provide lodging for temporary workers. In many cases a crew camp will also offer, meals, limited recreational activities, and other services for the benefit and well-being of its residents. Most crew camps will utilize pre-manufactured, individual housing units which are transported to the site. Some crew camps will utilize skid units. Others will utilize pre-manufactured modular components to assemble a housing facility at the approved location. Allowed dwelling types in a TCHF include manufactured homes. The majority of tenants of a crew camp are typically nonresidents with jobs in cyclical or temporary industries such as the oil industry. A crew camp is not a conventional hotel, motel, recreational vehicle park, mobile home park, or campground. A crew camp is not a facility that provides parking and hookups for individually owned recreational vehicles, fifth wheels, camper trailers, pop-up campers, pickup trucks with on-board campers or similar units. A crew camp is not a conventional “stick-built” on-site structure or group of structures. A crew camp is not for long-term or permanent habitation.

28. A “cultural institution” is an establishment that provides cultural, intellectual, scientific, environmental, educational or artistic enrichment to members of the community. Examples: museums, zoos.

29. “Day care center” is an establishment, other than a public or parochial school, which provides day care or education for four (4) or more unrelated children aged five (5) years and under, for a period of more than two months.

30. A “department store” is an establishment, typically large in nature, which provides a wide range of consumer goods that are segmented into different departments within the facility. Examples: Macy’s, Shopko, Target, Wal-Mart.

31. “Development” is a building or portions thereof arranged or designed to provide living facilities for one or more families. The term “dwelling” shall not be deemed to include transient housing facilities.

32. “Dwelling” is a building or portion thereof arranged or designed to provide living facilities for one or more families. The term “dwelling” shall not be deemed to include transient housing facilities.

33. A “dwelling, multi-family” is a residential building designed for and occupied exclusively by more than two families.

34. A “dwelling, single family” is a dwelling unit located on its own lot that is not attached to any other dwelling unit. Unless defined otherwise, a single family dwelling is constructed entirely onsite and is not prefabricated offsite.

35. A “dwelling, two-family” is a residential building designed for and occupied exclusively by two families.

36. A “Dwelling Unit” is a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation..

37. “Family” is any number of individuals, related by blood, legal adoption, or marriage, or a group of not more than two persons who need not be related by blood or marriage, living together in a dwelling unit as members of a single housekeeping unit..

38. “Family child care” is a child care operation performed out of a detached single family dwelling, which also serves as the primary residence of the operator/provider, offering care, maintenance and supervision for hire or compensation, for less than twenty-four (24) hours per day, for no more than twelve (12) children under the age of twelve (12) years, including any children of the operator/provider on the premises that are under the

age of twelve (12) years, and generally licensed by the North Dakota Department of Human Services as an early childhood program. Family child care is considered an accessory use to the principal use of the property as single-family detached residential dwelling.

39. "Farm" is any parcel of land containing at least ten (10) acres which is used for gain in the raising of agricultural products, livestock, poultry or dairy products. It includes necessary farm structures and the storage of equipment used. It excludes the raising of furbearing animals, riding academies, livery or boarding stables, dog kennels and commercial feed lots.

40. "Farm Residence" is a dwelling whose occupant is a person who normally devotes a major portion of their time to the activities of producing products of the soil, poultry, livestock or dairy farming in such products' unmanufactured state.

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

    d. The overflow of inland or tidal waters, and/or

    e. The unusual and rapid accumulation or runoff of surface waters from any source.

42. A "funeral home" is a facility used for pre-burial preparation of human remains including but not limiting to a mortuary, chapel, viewing area, vehicular storage, parking, but not including burial facilities. A funeral home may include a crematorium.

43. "Garage, Private" is an accessory building or portion of a main building on the same lot and used for the storage only of private motor vehicles, not more than two of which are owned by others than the occupants of the main building.

44. "Garage, Public" is a building, or portion thereof, other than a private garage, used for the storage of motor vehicles.

45. "Garage, Repair" is a building for space for the repair or maintenance of motor vehicles, but not including auto wrecking establishments or junk yards.

46. "Group home – disabled" is a group home for the disabled is a dwelling unit which is occupied as a single housekeeping unit in a family-like environment by up to 8 persons with disabilities plus support staff. Residents are supervised by a sponsoring entity or its staff which furnishes habilitative services to the group home residents. A group home is owned or operated under the auspices of a nonprofit association, private care provider, government agency, or other legal entity, other than the residents themselves or their parents or other individuals who are their legal guardians. The group home constitutes a single housekeeping unit where residents share responsibilities, meals, and recreational

activities as in any family. The group home staff is specially trained to help the residents achieve the goals of independence, productivity, and integration into the community.

A group home for the disabled is not a clinic or hospital where treatment is the principal or essential service provided. Residency in a group home is long term relatively permanent and measured in years, not months or weeks. A group home can house people with developmental disabilities (mental retardation, autism, etc.), mental illness or physical disabilities as defined by NDCC 25-16-14(1.)

A group home for the disabled is not a group home facility for drug and alcohol treatment, treatment of sex offenders; and alternative or post incarceration.

47. "Group home – halfway house" is characterized as the residential occupancy of a structure by a group of people, who have been individually convicted of a felony, that do not meet the definition of "family". A halfway house is for drug and alcohol treatment, treatment of sex offenders; and alternative or post incarceration facilities. The size of the group may be larger than the average size of a household. Tenancy is arranged on a monthly or longer basis. Generally, halfway houses have a common eating area for residents. Uses commonly associated with halfway houses are group treatment and/or training, offices, recreational activities, and parking of vehicles for occupants and staff.

    f. Exceptions to the halfway house definition include:

        i. Lodging where tenancy may be arranged for periods of less than 30 days.

        ii. Lodging where the residents meet the definition of "family" and where tenancy is arranged on a month-to-month basis or for a longer period.

        iii. Facilities for people who are under judicial detainment and under the supervision of sworn officers.

        iv. The person was a minor when he/she committed the offense and was not convicted as an adult.

        v. The person is a minor or ward under guardianship.

48. "Home Occupation" is an occupation conducted in a dwelling unit, provided that:

    g. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

    h. There shall be no change in the outside appearance of the building or premises, or

other visible evidence of the conduct of such home occupation other than one sign, not exceeding six square feet in area, non-illuminated, and mounted flat against the wall of the principal building.

i. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

j. No equipment of process shall be used in such home occupation which creates noises, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuation in line voltage off the premises.

49. "Hotel/Motel" is a building where lodging with or without meals is provided and offered to the public for compensation. Hotels include motels, but does not include Group Dwellings for the Disabled.

50. "In-Home Apartment" is a self-contained dwelling unit with no more than two bedrooms built within an existing residential structure which was not originally designed as a two-family dwelling unit.

51. A "junkyard" is an establishment that provides for the discarding, keeping, sale, storage, or trading of debris, junk, non-desirable goods, rubbish, scrap metals, trash, waste, dismantled motor vehicles, wrecked motor vehicles, dismantled appliances, wrecked appliances, or anything similar in nature, as well as any parts thereof of the foregoing items. Examples: Auto Wrecking Yard, Salvage Yard

52. "Industrial, Heavy" is industrial uses which generate large volumes of vehicular traffic or create obnoxious sounds, glare, vibrations, dust, odor or smoke.

53. "Industrial, Light" is industrial use which do not generate large volumes of vehicular traffic and do not create obnoxious sounds, glare, dust, vibrations, odor or smoke.

54. "Lot" is 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 other open space as herein required. Each lot shall have access to a public street or way.

55. "Lot, Coverage" is the total area of buildings expressed as a percentage of the total lot, plot or tract.

56. "Lot, Depth of" means the horizontal distance between the front and rear lot lines.

57. “Lot, Frontage” is the front of a lot 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.

58. “Lot, Width” is 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.

59. “Medical Clinic” is any building designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists and podiatrists; and in which no patients are lodged overnight.

60. A “manufactured home” is a federal housing and urban development (HUD) labeled structure, transportable in one or more sections that, in its traveling mode, is eight body feet [2.44 meters] or more in width or forty body feet [12.19 meters] or more in length, or, when erected on site, is three hundred twenty or more square feet [29.73 square meters]; that is built on a permanent chassis; that is designed to be used as a dwelling; that may or may not have a permanent foundation; is connected to the required utilities; and that contains the plumbing, heating, air-conditioning, and electrical systems; except that such term shall include any structure that meets the size requirements and for which the manufacturer has voluntarily filed a certification required by the secretary of housing and urban development and that complies with the manufactured home construction and safety standards. This definition should not be interpreted to include any type of recreational vehicle that may equal or exceed the body length or width specified herein. ND Admn. Rules 108-03-01-03(10) Jan. 1, 2006

61. A manufactured home can be installed by a certified installer or by the home owner.

62. Home owners installing their own Manufactured Home must have the installation inspected by a certified inspector. Installer must notify inspector for inspection.

63. All manufacturers’ installation instructions shall be followed. Manufactures Installation Manual must be available for the inspection.

64. Where site conditions are different than those described in the manufacturer’s installation instructions, the installation must be designed by a registered professional engineer or architect to meet the same goals as those in the manufacturer’s installation. If Alternative Installation methods are used, the supporting documents must be available for the inspection.

65. A “manufactured home, Class A” is a manufactured home that must be installed on a permanent perimeter foundation. They must be at least twenty-four (24) feet across at the narrowest section when erected onsite, and placed so that its longest measurement is

parallel to an adjacent street. The main roof should be pitched, rather than flat.

66. A “manufactured home, Class B” does not have to be placed on a permanent perimeter foundation but must be installed per manufacturer’s recommendation and is subject to the requirements for “manufactured home” as described above except for minimum size and roof pitch requirements.

67. A “mobile home” is a transportable, factory-built structure that was manufactured prior to June 15, 1976 or otherwise does not comply with the federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401) and that is designed to be used as a single dwelling unit. A mobile home is: (1) constructed off-site, (2) equipped with the necessary utility service connections, (3) made so as to be readily movable as a unit or units on its own running gear, and (4) designed to be used with or without a permanent foundation. (Note: After June 15, 1976 no mobile homes have been constructed.)

    Existing mobile homes currently located in Tioga are allowed to remain but the importation of any additional mobile homes into the City is not allowed because they do not meet the current building code requirements.

68. A “mobile Home or manufactured home park” is a parcel of land under single ownership that has been planned and improved for the placement of mobile homes or manufactured homes. Campers and Recreational Vehicles are not permitted. A single park must be at least three (3) gross acres or larger.

69. A “modular home” is a dwelling unit which was constructed off site in a factory as separate modules which are joined together. The manufacturer of a modular residential or commercial structure shall contract with a third party for the inspection of the structure for compliance with all applicable building, electrical, fire, and plumbing codes and standards during the manufacturing process in the factory. A third party that conducts inspections and certifies compliance with all applicable codes and standards must be approved as a certified third-party inspector by the North Dakota Division of Community Services.

70. A “modular Home, Class A” is a modular home that must be installed on a permanent perimeter foundation. They must be at least twenty-four (24) feet across at the narrowest section when erected onsite, and placed so that its longest measurement is parallel to an adjacent street. The main roof should be pitched, rather than flat.

71. A “modular home, Class B” is a modular home that does not have to be placed on a permanent foundation, but shall be placed on a foundation per manufacturers’ recommendations.

72. “Motor vehicles” as referred to in this ordinance include small passenger vehicles and other vehicles that do not exceed triple axle trucks in size. Examples include SUVs, passenger cars, sports cars, medium sized pickup trucks, and vans.

73. “Nonconforming Use” is any building or tract of land lawfully occupied by a use at the time of passage of this ordinance or amendments thereto, which does not conform with the provisions of this ordinance or amendments thereto.

74. “Non-Farmer” is any person who does not normally devote a major portion of his/her time to the activities of producing products of the soil, poultry, livestock or dairy farming in such products’ unmanufactured state.

75. “Non-Farmer Residence” is a dwelling which is to be situated on a parcel of land and whose initial occupant is or may be a non-farmer or any other person who does not intend to farm such parcel or engage in upon such parcel the raising of livestock or other similar operations normally associated with farming or ranching.

76. “Off-premise advertising signs” are advertising signs that are not located on the property of the business that is being advertised. Examples: Billboards.

77. “Parking Space” is an area 9.5 feet by 18 feet, or greater which is sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile. Required off street parking shall be provided in a manner that vehicles do not approach on a public right-of-way.

78. “Permitted Use” is any use which complies with the requirements of a zoning district and is unconditionally allowed.

79. “Planning Commission” is the Planning and Zoning Commission of Tioga.

80. A “private club”, fraternal organization, or public service group is a non-profit organization which has regular or periodic gatherings of the members. The facility may be open to the public and may include food and beverage sales and gaming activities. The facility may also be rented or leased to non-member groups for special events, including but not limited to wedding parties, class reunions and family reunions. Examples of private clubs include the Elks, Moose, Eagles, Lions, VFW, AMVETS, Masons, Freemasonry, Schriners, Kiwanis, Rotary International, Toastmasters, Salvation Army and Odd Fellows.

81. A “production facility” is an establishment that is industrial in nature, which provides for the manufacturing, production and distribution of consumer goods. Examples: Manufacturing Facilities, Freight Movement Facilities, Wholesale Facilities, Production Facilities, Storage Facilities

82. “Prohibited Use” is any use which does not comply with the requirements of a zoning district and is not allowed under any condition. Prohibited uses are those uses in the Use Table (Section 5.0413) not labeled as permitted or conditional.

83. "Public utility" includes any association, person, firm, corporation, limited liability company, or agency engaged or employed in any business enumerated in NDCC Title 49. As a use, “public utility” includes the supply of homes, businesses, and other establishments with water, light, heat, power, sewage collection, treatment, or disposal for sanitary or drainage purposes, transportation of persons or property, and means of communication.

84. “Public buildings” are structures principally of an institutional nature or serving a public need such as: governmental buildings, public hospitals, public schools, public libraries, public museums, post offices, police and fire stations, public utilities, and other public services that do not constitute a commercial enterprise.

85. A “recreational vehicle (RV)” is a vehicular type unit primarily designed as a temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by a vehicle. Common types of RVs include motorhomes, travel trailers, fifth wheels, pop-up tent campers, over-the-cab or on-board pickup campers. A recreational vehicle campground or facility is not a crew camp or Temporary Crew Housing Facility.

86. A “recreational campground” is a designated area under single ownership or management which has been planned, designed and improved to accommodate campsites for tents and/or sites for at least twenty recreational vehicles and is open to the general public as temporary occupancy for recreational or vacation purposes.

87. “Repair Shops” are repair shops which service business machines, bicycles and household appliances.

88. A “retail nursery and/or greenhouse” is an establishment that provides for the cultivation, display, storage and sale of plants, shrubs, trees, as well as other associated materials and tools.

89. A “retail shop” is an establishment primarily used for the sale of consumer goods, merchandise, and/or services to the general public.

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

91. “Restaurant” is a public eating establishment at which the primary function is the preparation and serving of food.

92. “Rooming House” is any dwelling in which more than two (2) persons, either individually or as families, are housed or lodged for hire, with or without meals.

93. A “sand and gravel mining” involves the removal of sand, gravel, and/or scoria from the earth.

94. “Sand and gravel processing” involves the refinement of sand, gravel, and/or scoria for the purpose of use or sale.

95. A “self-service storage facility” is also known as “self-storage units” or “mini-warehouses”. These structures contain spaces, compartments or units which are individually rented or leased to clients for storage and retrieval of their goods. Storage Facilities are permanent structures, built on-site, with frost-protected foundation systems. Storage Facilities do not include shipping containers, cargo containers, roll-off containers, semi-trailers or other types of portable or non-permanent containers. Outdoor storage at Storage Facility sites is not allowed. Storage of fireworks or other flammable, combustible or hazardous materials is not allowed. Motor vehicles may be stored. Individual Storage Facilities may be used for storage of commercial goods but shall not be used for conducting any service, retail, merchandising, and wholesale or light industrial business activities.

96. “Service station” is an establishment consisting of a building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced; such service shall not include tire recapping, body repairs or major overhaul.

97. “Setback” is the distance between the lot line and building line.

98. A “shopping center” is a collection or group of retail shops or department stores, generally located in the same building or site, for the purpose of selling consumer goods, merchandise, and services. Examples: Strip Mall, Mall, Plaza.

99. “Sign” is any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization or business, but shall not include and display an official notice or an official flag.

100. “Storage of hazardous materials” involves a building or container used primarily for the storage of hazardous materials. Examples: Storage of Explosive Materials, Storage of Flammable Materials.

101. A “street” is a public way for vehicular traffic which affords the principal means of access whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, alley, or however otherwise designated.

102. “Street, Thoroughfares” are arterial streets which are used primarily for heavy traffic, and serving as an arterial traffic way between the various districts of the community, as shown on the Comprehensive Plan.

103. “Street, Collectors” are those that carry traffic from minor streets to the major system of thoroughfares and highways, including the principal entrance streets of residential districts as shown on the Comprehensive Plan.

104. “Street, Minor” are those which are used primarily to provide vehicular and pedestrian access to abutting properties.

105. “Street width” is the shortest distance between lines of lots delineating the street right-of-way.

106. “Street, private” is a private roadway affording access by pedestrians and vehicles, which is under individual rather than municipal control and ownership.

107. “Street, service road” is a minor street which is parallel and adjacent to thoroughfares and highways, and which provides access to abutting properties and protection from through traffic.

108. “Structure” is anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences.

109. “Structural alterations” are any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

110. “Substantial improvement” is any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

a. Before the improvement or repair is started, or

b. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

111. A "telecommunication tower" is a tower erected for the purpose of providing communication services, such as radio, television, phone, to the general public.

112. "Commercial Transmission Lines" includes any of the following:

a. A regional or interstate electrical line.

b. A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas or liquid hydrocarbon products for public commerce.

113. "Variance" is the relaxation of the terms of the Zoning Regulations is relations to height, area, size and open spaces where specified physical conditions, unique to the site, would create an unreasonable hardship in the development of the site for permitted uses.

114. A "wind energy conversion system" is an apparatus for converting the kinetic energy available in wind to mechanical energy that can be used to power machinery and/or to operate an electrical generator. The major components of a typical wind energy conversion system include a wind turbine, a generator, interconnection apparatus, and control systems.

115. "Yard" is a space on the same lot with the principal building or structures, open, unoccupied and unobstructed by buildings or structures from the ground upward.

116. "Yard, Front" is the 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 frame.

117. "Yard, Rear" is 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 face of the principal building.

118. "Yard, Side" is 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 the principal building and the side lot line.

119. "Zone District" is a portion, area or section of the City for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land and open

spaces about buildings as herein established.

ARTICLE 3 - Non-Conforming Uses and Structures

5.0301 Non-Conforming Uses

The lawful use of a structure or a parcel of land existing at the time of adoption or amendment of this ordinance may be continued although the use does not conform with the provisions of this chapter, except that:

1. Extension. Only that portion of the land in actual use may be so continued and a non-conforming use may not be extended, enlarged or substituted. Any public service (electrical, water, sewer, and etc.) does not constitute actual use of the land.

2. Damage or Destruction. If any building in which there is a non-conforming use is damaged by fire, flood, explosion, wind or other calamity to the extent of more than fifty percent (50%) of its current assessed value, it shall not be restored except so as to comply with the provisions of this ordinance.

3. Repairs and Alterations. Total lifetime structural repairs or alterations to a structure containing a non-conforming use shall not exceed fifty percent (50%) of the assessed value of the structure at the time of its becoming a non-conforming structure unless it is permanently changed to conform with the provisions of this ordinance.

4. Discontinuance. In the event of any non-conforming use ceases, for whatever reason, for one (1) year, any future use of the land, structure or water shall be in conformity with the provisions of this ordinance.

5. Moving Building. Should any building, other than a mobile home, containing a non-conforming use be moved any distance whatsoever, the building shall thereafter be used only in conformity with the provisions of this ordinance.

6. Replacement of a Mobile Home. In order for a mobile home which is a non-conforming use to be replaced with a different mobile home, the replacement mobile home must be of a higher quality. The person replacing the mobile home must first get approval from the Planning Commission that the replacement mobile home is of a higher quality.

7. A non-conforming use shall not be changed to any use other than those permitted within the district in which the building is located. Once so changed, it shall not revert back to a non-conforming use.

Single family dwelling units existing at the time of ordinance adoption or amendment may be continued as non-conforming uses without regard to the above exceptions.

Any use which is permitted as a conditional use in a district under the terms of this ordinance shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

ARTICLE 4 - Zoning Districts and Zoning Map

5.0401 District Zoning Map

The boundaries of the zoning districts appear on a map designated as the District Zoning Map. The District Zoning Map and all notations, references and other information shown thereon were all fully set forth and described herein. A properly attested copy of the District Zoning Map is on file with the City Auditor.

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

1. In unsubdivided property, the district boundary line shall be determined by the use of the scale or dimensions appearing on the map.

2. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.

3. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

4. Boundaries indicated as approximately following City limits shall be construed as following such City limits.

5. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

No building or structure shall be erected, and no existing building or structure shall be moved, altered, added to or enlarged; nor shall any land, building or structure be used, designed or arranged for use for any purpose or in any manner unless it meets both of the following conditions:

1. It is included in the district use regulations which follow as a use which is listed as a permitted use or listed among those used listed as a conditional use for which a conditional use permit has been obtained.

2. It is in conformance with the Special Provisions listed in article five (5) of this

chapter.

5.0402 Zoning Districts

In order to classify, regulate and restrict the location of businesses, industries, residences, and the location of buildings designed for specified uses; to regulate and limit the weight and bulk of buildings; to regulate and limit the intensity of the use of lots; to regulate and determine the area of yards and other open spaces surrounding buildings; and to regulate and restrict the density of population; the area within the zoning jurisdiction of the City of Tioga and the area within the extra-territorial boundary shall be divided into any of the following districts being known as:

R-1	R-2M	C-1	I-1	A-1
R-2A	R-3	C-2	I-2	T-H

All territory which hereafter comes into the jurisdiction of the City's extra-territorial zoning jurisdiction shall be in the A-1 district until or unless otherwise changed by ordinance.

5.0403 R-1 Use Regulations

1. Intent: It is the intent of this district to provide for very low density residential neighborhoods. It is further intended that no uses be permitted that will interfere with health, safety, or general welfare or devalue the property for residential purposes.

2. Refer to Section 5.0413 for permitted uses, conditional uses, and uses not allowed.

5.0404 R-2A Use Regulations

1. Intent: It is the intent of this district to provide an attractive residential neighborhood of a lower density. It is further intended that no uses be permitted that will interfere with the health, safety, or general welfare or devalue the property for residential purposes.

2. Refer to Section 5.0413 for permitted uses, conditional uses, and uses not allowed.

5.0405 R-2M Use Regulations

1. Intent: It is the intent of this district to provide a lower density residential neighborhood where a variety of residential dwelling unit types may be located.

2. Refer to Section 5.0413 for permitted uses, conditional uses, and uses not allowed.

5.0406 R-3 Use Regulations

1. Intent: It is the intent of this district to provide attractive medium density residential neighborhoods.

2. Refer to Section 5.0413 for permitted uses, conditional uses, and uses not allowed.

5.0407 T-H Use Regulations

1. Intent: It is the intent of this district to provide for temporary or impermanent housing facilities and associated convenience facilities.

2. Refer to Section 5.0413 for permitted uses, conditional uses, and uses not allowed.

3. Time Period: One of the conditions for this type of zoning may be that the use can only exist for a certain length of time.

5.0408 C-1 Use Regulation

1. Intent: It is the intent of this district to provide for the orderly development of low density commercial activities which require extensive lot space and good vehicular access.

2. Refer to Section 5.0413 for permitted uses, conditional uses, and uses not allowed.

5.0409 C-2 Use Regulations

1. Intent: It is the intent of this district to provide for the orderly and efficient development of higher density commercial area.

2. Refer to Section 5.0413 for permitted uses, conditional uses, and uses not allowed.

5.0410 I-1 Use District

1. Intent: It is the intent of this district to provide an area for light industrial

activity which will not adversely affect adjacent residential areas.

2. Refer to Section 5.0413 for permitted uses, conditional uses, and uses not allowed.

5.0411 I-2 Use District

1. Intent: It is the intent of this district to provide an area for uses not compatible with residential or commercial activity.

2. Refer to Section 5.0413 for permitted uses, conditional uses, and uses not allowed.

5.0412 A-1 Use District

1. Intent: This district is established to permit normal agricultural uses and to preserve the land until it is developed as part of the City.

2. Refer to Section 5.0413 for permitted uses, conditional uses, and uses not allowed.

5.0413 Use Table

1. Intent: The following use table identifies where a specific use is located among the various zoning districts. The table has been broken into five (5) classifications: Residential, Commercial, Industrial, Institutional, and Communications. Each classification is then broken into "Use Categories," and then further broken down into "Use Examples." In addition, each zoning district is included at the top of the table. In order to determine if a use is permitted within a district, find the desired specific use and the corresponding zoning district. There are three available options the use table shows:

a. P – Permitted Use by Right: the use is allowed by-right in the corresponding zoning district;

b. C – Conditional Use: the use is listed as a Conditional Use under the procedures in this ordinance and may be allowed in the corresponding zoning district upon approval by the City;

c. No Symbol – the use is prohibited in the corresponding zoning district.

2. How to use the table: First, identify the proposed use and locate it under the "Use Examples" column. Upon locating the desired use, identify the corresponding zoning district and determine whether it is a permitted, conditional, or not allowed. For example, a proposed hotel located in the C-1 zoning district is permitted by right, whereas a proposed hotel located in the R-3 zoning district is not allowed.

P	Permitted Use by Right										
C	Conditional Use										
Use Category	**Use Examples**	**A-1**	**R-1**	**R-2A**	**R-2M**	**R-3**	**T-H**	**C-1**	**C-2**	**I-1**	**I-2**
Residential											
Group Living	Assisted Living Facilities		C	C	P	P	C				
	Group Home - Disabled		P	P	P	P	C				
	Basic Care Facilities		C	C	P	P	C				
Multi Family	Multi-family, 9 Dwelling Units and Above					C					
	Multi-family, 5-8 Dwelling Units					C	C				
	Multi-family, 3-4 Dwelling Units					P	C				
	Apartments								C		
	Apartment Hotel/Rooming House					C	C		C		
	Crew Camps	C					C				C
	Townhouse					P	C				
	Two Family Dwelling			P	P	P					
Single Family	Moving Home	C	C	C	C	C	C				
	Single Family Dwelling	P	P	P	P	P					
	Manufactured Homes, Class A	P	P	P	P		C				
	Manufactured Homes, Class B	P			P		C				
	Modular Homes, Class A	P	P	P	P	P	C				
	Modular Homes, Class B	P			P		C				
	Manufactured Home Park				P		C				
	Recreational Vehicles	C	C	C	C		C				
Commercial											
Food and Beverages	Bakeries							P	P	P	
	Delicatessen/Butcher Shops							P	P	P	
	Dine-In Restaurants							P	P	P	
	Drive-Thru Restaurants							P		P	
	Mobile Food Vendor						C	C	C	C	C
	Liquor Stores							P		P	
	Taverns/Bars							P	P	P	
Motor Vehicle Sales and Services	Car Wash							P		P	
	Motor Vehicle Sales							P		P	
	Motor Vehicle Repair and Services							P		P	
	Tire sales and services							P		P	

P	Permitted Use by Right
C	Conditional Use

Use Category	Use Examples	A-1	R-1	R-2A	R-2M	R-3	T-H	C-1	C-2	I-1	I-2
Other Services	Animal Hospitals/Veterinary							P		P	
	Animal Kennels	C						C		P	
	Barber Shop/Beauty Salon							P	P	P	
	Bed and Breakfast Facility	C	C	C					P		
	Business & Professional Offices					C		P	P	P	P
	Dental Offices							P	P	P	
	Hotel/Motel							P	P	P	
	Home Occupation	P	P	P	P	P			P		
	Laundromat							P	P	P	
	Medical Offices					C	C	P	P	P	
	Funeral Home							P	C	C	
	Temporary Office						C	C	C	P	P
	Photography/Art Studios					C		P	P		
	Self-Service Storage Facilities							P		P	
	Tattoo Parlor							P		P	P
Recreation, Commercial	Amusement Parks							P		P	
	Bowling Alleys							P	P	P	
	Health Club							P	P	P	
	Mini Golf							P		P	
	Private Clubs	C						P	P	P	
	Skating Rinks							P		P	
	Theaters							P	P	P	
Retail Sales and Services	Banks & Financial Instituituions							P	P	P	
	Convenience Stores w/ Gas							P	P	P	P
	Convenience Stores w/o Gas							P	P	P	
	Department Stores							P	P	P	
	Drug Stores							P	P	P	
	Furniture Stores							P		P	
	Grocery Stores							P	P	P	
	Hardware Stores							P	P	P	
	Mattress Stores							P		P	
	Retail Shops							P	P	P	
	Shopping Centers							P	P	P	
	Roadside Stand for Sale of Products Grown On-site	P									

P	Permitted Use by Right
C	Conditional Use

Use Category	Use Examples	A-1	R-1	R-2A	R-2M	R-3	T-H	C-1	C-2	I-1	I-2
Industrial											
Agriculture	Agricultural/Farming	P									
	Horse Boarding	P									
	Beehives and Beekeeping	P									
	Dairy processing plants	C								C	P
	Concentrated Animal Feeding Operation	C									P
	Grain Mills/Elevators	C									P
	Wholesale Nurseries & Greenhouses	P									
	Retail Nurseries & Greenhouses	C	C					P		P	
Industrial Production	Chemical Fertilizer Plant	C									P
	Lumber yard							C		P	
	Junk yard										P
	Pipeyards	C								C	P
	Refineries & Petro-chemical Plant										C
Resource Extraction	Coal Mining	C									C
	Mineral Extraction	C									C
	Sand and Gravel Mining	C								C	P
	Sand and Gravel Processing	C								C	P
	Wind Energy Conversion	C									C
Other	Adult Entertainment Centers									C	C
	Aviation	C									
	Concrete and/or Asphalt Batch Plant	C								C	P
	Heavy Equipment Sales & Services							C		P	
	Games of Chance							C		P	
	Contractor Equipment and Materials Storage	C						C		C	P
	Production Facility/Truck Terminal/Manufacturing									P	P
	Storage of Hazardous Materials									C	C
	Wharehouses									P	P
	Caretaker's Residence										C

P	Permitted Use by Right										
C	Conditional Use										
Use Category	**Use Examples**	**A-1**	**R-1**	**R-2A**	**R-2M**	**R-3**	**T-H**	**C-1**	**C-2**	**I-1**	**I-2**
Institutional											
Education	Colleges	C	C	C	C	C	C		C		
	Primary Schools	C	C	C	C	C	C		C		
	Secondary Schools	C	C	C	C	C	C		C		
	Technical/Trade Schools	C	C	C	C	C	C	P	C	C	
Public Facilities and Services	Emergency Response Facilities	C	C	C	C	C	C	C	C	C	C
	Public Buildings	C	C	C	C	C	C	C	C	C	C
	Health Care Facilities							P	P	P	
	Public Utilities	P	P	P	P	P	P	P	P	P	P
	Commercial Transmission Lines (Electric, Oil, & Gas)	C	C	C	C	C	C	C	C	C	C
	Sewage Disposal Plants	C									C
	Solid Waste Landfills	C									C
Other	Cementaries	C	C	C	C	C	C	C	C	C	C
	Community Centers	C	C	C	C	C	C	C	C	C	
	Day Care Centers			C	C	P	C	C	P		
	Family Child Care	P	P	P	P	P					
	Churches and Religious Institutions	C	C	C	C	C	C	C	C	C	
Recreation	Campground	C									
	Community Swimming Pools		P	P	P	P	P	C	P		
	Cultural Instituitions		C	C	C	C		P	P		
	Golf Courses/Country Clubs	C									
	Libraries		C	C	C	C	C	C	C		
	Recreational Vehicle Park	C					C	C			
	Parks	C	P	P	P	P	C	C	P		
Communications											
	Off-premise Advertising Signs	C						C		C	C
	Towers <100 ft	C						C		P	P
	Towers >100 ft	C								C	C

ARTICLE 5 - Special Provisions

5.0501 Height, Area and Setback Regulations

1. Except as otherwise specifically provided in this ordinance, no structure shall be erected which does not have the minimum setback or which exceeds the height limits specified below.

District	Front Setback	Side Setback	Rear Setback	Height Limit
R-1	25 feet	5 feet	20 feet	30 feet
R-2A	25 feet	5 feet	20 feet	30 feet
R-2M	25 feet	5 feet	20 feet	30 feet
R-3	25 feet	10 feet	20 feet	40 feet
T-H	25 feet	5 feet	20 feet	30 feet
C-1	25 feet	10 feet	20 feet	30 feet
C-2	None	5 feet	40 feet	40 feet
I-1	25 feet	10 feet	20 feet	40 feet
I-2	25 feet	10 feet	20 feet	100 feet
A-1	25 feet	10 feet	20 feet	50 feet

2. Where lots have double frontage, the required front yard shall be provided on both streets.

Where a lot is located at the intersection of two or more streets, there shall be a front yard on each side street of a corner lot; provided, however, that the building width of a single lot shall not be reduced to less than thirty-five (35) feet, except where necessary to provide a yard along the side street with a depth of five (5) feet.

3. The following shall be exempt from the maximum height regulations in all districts: antennas, chimneys, drilling rigs, flag poles, church steeples, water

tanks, and other appurtenances usually required to be placed above roof level and not intended for human occupancy.

4. Accessory structures may be built in the required rear yard setback, but such accessory structures shall not be nearer than three feet to any side or rear lot line.

5. No residential structure shall be erected which does not have the minimum lot size and lot width specified below.

		Minimum Lot Area	Minimum Lot Width
a.	Dwelling, Single Family	4000 sq. ft.	40 ft.
b.	Dwelling, Two Family	8000 sq. ft.	50 ft.
c.	Dwelling, Townhouse,		
	Single Story	2300 sq. ft.	24 ft.
	Two Story	2300 sq. ft.	18 ft.
d.	Dwelling, Multi-Family		
	Per Structure	6000 sq. ft.	none
	Per Unit	2000 sq. ft.	none

5.502 Fence Regulation

1. In R-1, R-2A, R-2M, R-3 and T-H residential district, no fence or closely grown hedge shall be more than six (6) feet in height in any rear or side yard. In addition, no fence or closely grown hedge shall be more than four (4) feet in height in any front yard.

2. Fences in I-1, I-2, C-1 and C-2 shall not exceed ten (10) feet in height.

3. Fences erected upon school or park grounds shall be exempt from these height limits.

4. On corner lots in all districts no fence or closely grown hedge in excess of three (3) feet above the curb level shall be permitted within a triangular area defined as follows: beginning at the intersection of the projected curbing lines of two intersecting streets, thence thirty (30) feet along one curb line, thence diagonally

to a point thirty (30) feet from the point of beginning on the other curb line, thence back to the beginning.

5. Fences must be set back at least five (5) feet from the curb in the front yard.

6. No fence may be placed within any street right-of-way or upon public easements.

5.0503 Sign Regulations

1. General Requirements:

a. Signs shall be maintained in good repair. Broken signs, deteriorated signs, or signs on vacant buildings may be ordered repaired or removed by the City Commission.

b. No sign other than traffic and street signs shall be erected or temporarily placed within any street right-of-way or upon public easements.

c. No sign shall conflict in any manner with the clear and obvious appearance of public devices controlling traffic.

d. Billboards will be permitted only in A-1 and I-2 districts.

2. Residential Requirements:

Only the following will be permitted in districts R-1, R-2A, R-2M, R-3 and T-H:

a. Signs of not more than two square feet conveying street numbers or the name of the resident of the premises.

b. Unilluminated signs of not more than six (6) square feet the message of which is limited to a warning of danger, a regulation, advertising the premises for sale or rent, or a political advertisement.

c. The flag of any nation or state respectfully displayed.

d. Signs located on any licensed vehicles lawfully parked.

e. Church or institutional signs not exceeding thirty-two (32) square feet.

5.0504 Off Street Parking Requirements

Except in the C-2 district, there shall be provided off street parking for motor vehicles, and the minimum number of parking spaces is listed below.

	Spaces Required
Dwelling, Single Family	1 per dwelling unit
Dwelling, Two Family	1 per dwelling unit
Dwelling, Townhouse	1 per dwelling unit
In-Home Apartment	1 per dwelling unit
Mobile Home	1 per dwelling unit
Dwelling, Multi-Family	2 per dwelling unit
Industrial	1 per employee on largest shift
Office and Commercial Use	1 per 400 sq. ft. of gross floor area

5.0505 Parking-Storage of Use of Major Recreational Equipment

For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pickup campers or coaches designed to be mounted on automobile vehicles, motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No major recreational equipment shall be parked on any residential street for a period exceeding forty-eight (48) hours during loading or unloading. No such equipment shall be used for living or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

5.0506 Seismographic Exploration

The provision of this section shall in no way restrict or interfere with the normal digging, drilling, or excavation for agricultural purposes, the operation of coal mines, coal and subsurface exploration operations, oil and gas drilling, transportation and production facilities.

All seismic exploration, either explosive or nonexplosive, is prohibited in all districts within the corporate limits of the City of Tioga and within the surrounding extraterritorial area that is under the zoning jurisdiction of the City of Tioga.

5.0507 Flood Hazard Regulations

1. Certain areas of Tioga are subject to a one percent or greater chance of flooding in any given year. These areas, known as special flood hazard areas, are identified by the Federal Insurance Administration in its Flood Hazard Boundary Map. This map is adopted by reference and declared to be part of this ordinance. It is on file at the City Auditor's office, City Hall, Tioga, North Dakota.

2. Permit Procedures:

a. Before construction or development begins within any area of special flood hazard, a permit shall be obtained from the Building Official. The permit shall specifically include:

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

2. Elevation in relation to mean sea level to which any structure will be flood-proofed;

3. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in the Specific Standards section 5.0507(4)(b).

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

b. All permit applications shall be reviewed (using the best available base flood elevation data from any Federal, State or local source) to: a) assure sites are reasonable safe from flooding; b) determine that all necessary permits have been obtained from those Federal, State or local agencies form which prior approval is required; and c) to determine if the proposed development adversely affects the flood carrying capacity of a flood-prone area. For the purposes of this ordinance, "adversely affects"means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

1. If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further considerations.

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

3. If the proposed development is a building, then the following provisions of this ordinance shall apply.

3. General Standards:

If a proposed building site is located in a flood-prone area, all new construction and substantial improvements (including the placement of pre-fabricated buildings and mobile homes) shall conform to the following standards:

a. Anchoring

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

2. Mobile homes shall have:

a. over-the-top ties provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than fifty feet long requiring one additional tie per side;

b. frame ties provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than fifty feet long requiring four additional ties per side;

c. all components of the anchoring system capable of carrying a force of four thousand eight hundred (4,800) pounds; and

d. any additions to the mobile home similarly anchored.

b. Construction Materials and Methods

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

c. Utilities

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

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

d. Subdivision Proposals

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

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

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

4. Base flood elevation date shall be provided for subdivision proposals and other proposed developments which contain as least fifty (50) lots or five (5) acres (whichever is less).

4. Specific Standards

Where base flood elevation date is available, the flooding standards shall be met.

a. Residential Structures

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

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

b. Nonresidential Structures

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

1. be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

3. be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the Building Official as set forth in the Administrative Requirements section 5.0507(5)(b)(2).

5. Administrative Requirements

The Building Official shall:

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

b. For all new or substantially improved flood-proofed structures:

1. obtain and record the actual elevation (in relation to mean sea level) to which the structure has been flood-proofed;

2. maintain the flood-proofing certifications required in the Specific Standards section 5.0507(4)(b).

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

d. Notify adjacent communities and the North Dakota State Engineer prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

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

5.0508 Adult Entertainment Center Regulations

An adult entertainment center shall be permitted only in the I-2 District and in no other district, and then only if the center meets the following conditions:

1. The center is located no closer than one thousand two hundred fifty feet (1,250) feet from any preexisting church, dwelling unit, or property zoned R-1, R2A, R-2M, or R-3.

2. The center excludes from its premises those persons less than eighteen (18) years of age.

3. The center displays no signs visible from the exterior of the center, except for signs identifying the center as an adult book store or adult cinema, or both.

4. The manager and owners of the center are registered with the City Police and have provided them with such information as they reasonable may require with respect to their identities, including fingerprints and prior criminal records, if any.

5. The business premises of the center which are generally open to its patrons are open equally at the same time without charge to members of the City Police Department who may wish to enter thereon provided the entry is in the course of the discharge of the policeman's duties.

ARTICLE 6 - Variances

5.0601 Variances

1. The City Commission may authorize a variance from the terms of this ordinance. The Commission must find that the granting of such a variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable or unusual hardship or difficulty. All of the following conditions must exist:

a. The property has exceptional value, unique or special characteristics different from other property, particularly adjacent property.

b. Enforcement of the ordinance, with regard to properties having said characteristics, results in unnecessary and undue hardship.

c. Granting of the variance would have no adverse effect on the public interest, safety, health and welfare.

d. Granting of a variance would have no adverse effect on neighboring property.

Under no circumstances shall the City Commission grant a variance allowing a use within a district not permissible under the terms of this ordinance, nor shall the Commission use the variance for a change affecting a large number of properties.

2. Applications for variances shall be submitted to the Planning Commission Secretary by the property owner. The application shall include:

a. name and address of applicant
b. date of application
c. the special conditions or circumstances which are peculiar to the applicant's land or structure

d. payment of a fee in the amount of twenty dollars ($20.00)

The Planning Commission Secretary, upon receipt of an application for variance shall fix a reasonable time for a public hearing. Notice of the time, place and subject of the hearing shall be published once in the official newspaper at least ten (10) days prior to the date fixed for the public hearing.

After the public hearing, the Planning Commission shall make its recommendation to the City Commission although its decision may be deferred for up to thirty (30) days for gathering of evidence.

3. After receiving the recommendation of the Planning Commission, or if the Planning Commission has not acted within thirty (30) days after the public hearing, the City Commission shall hold a public hearing on the request for a variance. The City Commission shall notify the person requesting the variance of its decision by mail.

ARTICLE 7 - Conditional Use Permits

5.0701 Conditional Use Permits

A conditional use permit may be granted following compliance with the procedure set forth in this section if the conditional use is one set forth in the District Regulations, provided that no application for a conditional use shall be granted unless all of the following conditions are found to be present:

1. The conditional use will not be detrimental to or endanger the public health, safety or general welfare;

2. The existing permitted uses in the neighborhood will not in any manner be substantially impaired or diminished by the establishment of the conditional use;

3. The conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district;

4. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided;

5. Adequate measures have or will be taken to provide access and exit so designed as to minimize traffic congestion in the public streets; and

6. The conditional use shall conform to all special provisions of the district in which it is located.

Application for Conditional Use Permit shall be submitted by the property owner to the Planning Commission Secretary. The application shall include:

1. The name and address of the applicant.

2. The date of application.

3. A description of the site and its relationship to the surrounding area.

4. A preliminary map showing boundary lines and location of structures to be developed on the site.

5. Location of existing structures on adjacent property.

6. Parking plan showing off-street parking areas and/or loading areas.

7. Names and addresses of adjacent property owners.

8. Any reasonable information the Planning Commission deems necessary.

The Planning Commission Secretary, upon receipt of an application for a conditional use permit shall present the same to the Planning Commission at its next regular or special meeting, at which time a date within the next forty-five (45) days shall be set for the hearing of the proposed conditional use.

The Secretary shall notify the applicant of the date of the hearing and of the applicant's obligation to give public notice of the hearing.

Notice of the hearing shall be the obligation of the applicant, and shall be published at least fifteen (15) days before the hearing and mailed to those persons designated by the Planning Commission. Notice shall include the time, place and purpose of the hearing and shall be approved by the Secretary. Proof of publication of the notice shall be filed with the Secretary, along with proof of mailing, if required, prior to the hearing, and shall be maintained as a permanent record of the Planning Commission.

Following the hearing, the Planning Commission shall consider the application and evidence presented and shall render its decision within fifteen (15) days. The Commission shall notify the applicant of its decision and its reasons therefore by mail. The decision of the Planning Commission may be appealed to the City Commission within thirty (30) days.

ARTICLE 8 - Amendments

5.0801 Amending

The City Commission may from time to time amend, supplement or change the district boundaries or regulations contained in this zoning ordinance. A proposal for an amendment or a change in zoning may be initiated by the City Commission, by the Planning Commission, or upon application of the owner of the property affected. All such proposed changes submitted to the Planning Commission for recommendation and report. The Planning Commission shall prepare final written findings which shall be submitted to the City Commission within sixty (60) days after the time of referral of the proposed amendment to the Planning Commission.

5.0802 Applications

The party desiring any change in zoning district boundaries or regulations contained in this zoning ordinance as to any lot, tract or area of land, shall file with the City Auditor an application upon forms provided, and such application shall be accompanied by such data and information as may be prescribed by the Planning Commission. At the time of filing said application with the City Auditor, the applicant shall provide the City with the names and addresses of all owners of any land located within two hundred (200) feet of the outer limits of said area to which the applicant desires change of zoning.

5.0803 Public Hearing and Notice

Before the Planning Commission shall, by proper action, formulate its recommendation to the City Commission on any such proposed or requested change of zoning district boundary or regulation, whether initiated by the City Commission, the Planning Commission or by the property owner, the Planning Commission shall hold a public hearing on such proposal. The Secretary of the Planning Commission shall cause a notice of public hearing to be published once a week for two successive weeks prior to the time set for the said hearing in the official City newspaper. Such notice shall contain:

1. The time and place of the hearing.

2. A description of any property involved in any zoning change, by street address if streets have been platted or designated in the area affected.

3. A description of the nature, scope, and purpose of the proposed regulation, restriction or boundary.

4. A statement of the times at which it will be available to the public for inspection and copying at the office of the City Auditor.

In addition to such publication notice, written notice of such proposed change shall be mailed to all the owners of property within the area proposed to be changed and to owners of any

land located within two hundred (200) feet of the outer limits of the area in which the zoning is to be changed.

5.0804 Protest

If a protest against a change, supplement, modification, amendment or repeal is signed by the owners of twenty percent (20%) or more:

1. Of the area of lots included in such proposed change; or

2. Of the area adjacent, extending one hundred fifty (150) feet (45.72 meters) 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 of all members of the City Commission, provided that protests in writing must be filed with the City Auditor prior to the time set for the hearing. If no protest is filed, a majority decision to the City Commission shall be sufficient.

ARTICLE 9 - Enforcement

5.0901 Enforcement

The administration and enforcement of this ordinance is hereby vested in the Tioga City Commission, the Tioga Planning Commission, the Building Inspector and the City Auditor.

The duty of the Tioga City Commission or its appointed representative is to investigate the violations of the provisions of this ordinance. If the City Commission finds a violation of this ordinance, they shall order in writing the correction of the violation.

The City Commission may institute appropriate action or proceedings for the purpose of:

1. Prosecuting any violation.

2. Restraining, correcting or abating such violation.

3. Preventing the occupancy of any building, structure or land in violation of this ordinance.

4. Preventing any illegal act, conduct, business or use in or about any buildings, structure or land in violation of this ordinance.

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