SECTION I

Introduction

1.1 Title: This ordinance shall be known as the “**Zoning Ordinance**, City of Buffalo, North Dakota.”

1.2 Purpose: The purpose of this ordinance is to promote the health, safety, morals, and general welfare as well as provide for the orderly development of the City of Buffalo, North Dakota.

1.3 Authority and Jurisdiction: This ordinance is adopted under the authority of Chapter 40-47 of the North Dakota Century Code. The provision of this ordinance shall apply within the corporate limits and the extraterritorial zoning jurisdiction of the City of Buffalo, North Dakota, as now and hereafter fixed and as established on the map entitled, “The Official Zoning Map of the City of Buffalo, North Dakota,” as the same may be amended pursuant to Section VI.

1.4 Repeal: All other ordinances or parts of ordinances that are in conflict with this ordinance are hereby repealed.

1.5 Severability: If any provision or section of this ordinance is found invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

1.6 Effective Date: This ordinance shall become effective after adoption by the City Council, Buffalo, North Dakota, as required by law.

SECTION II

Definition of Terms Used In This Ordinance

2.1 General Definitions:

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

The word “person” includes a firm, partnership, association, corporation, or individual.

The word “shall” is mandatory.

2.2 List of Definitions:

Accessory Use or Accessory Structure: A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use, such as a garage or tool shed.

Agriculture: The use of land for agricultural purposes, including the necessary buildings or structures for the farm or farm labor use. Agriculture shall be limited to farming and open grazing of livestock.

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

Buildings: Any structure used for shelter or enclosure of persons, animals, or property.

Conditional Use: A use which would not be appropriate in a particular district, but which, if controlled as to the number, location or relation to neighborhood, would promote the public safety, health, convenience or welfare. A conditional use is allowed in a district only if the regulations for that district specifically permit it subject to the approval of the City Council, and only when the Council finds that such use meets all of the requirements applicable to it as specified in the ordinance. The Council may choose not to approve the conditional use, but the reasons must be given in writing.

Dwelling: A building or portion of a building occupied exclusively for residential purposes. This does not include mobile recreational vehicles.

Family: Shall mean one or more individuals living together as members of a single housekeeping unit and doing their cooking in a single kitchen on the premises.

Feedlot: The use of land or buildings for feeding, fattening, breeding or holding livestock for eventual marketing.

Home Occupation: Any occupation (1) which is carried on solely by members of the family residing on the premises, (2) is clearly secondary to the use of the dwelling for residential purposes, and (3) does not create excess noise, traffic or other disturbances.

Junk Yard: An area used for the storage, keeping or abandonment of junk, including scrap materials or goods, or used for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

Lot: A parcel of land capable of having a building and accessory uses and still meet the yard requirements and front on the street.

Lot Coverage: The total surface area of a lot which is covered by any type of structure.

Lot Depth: The average distance between the front and rear lot lines.

Mobile Home: A dwelling unit designed for transportation after construction and not necessarily on a permanent foundation. A recreational travel trailer is not to be considered a mobile home.

Non-conforming Use: Any structure, building, or tract of land existing at the time of the adoption or amendment of this ordinance which does not conform to the ordinance.

Parking Space: A parking space shall consist of a separately accessible space, nine (9) feet by twenty (20) feet for parking a vehicle. All references to vehicle parking in this ordinance shall mean off-street parking.

Permanent Foundation: A foundation of treated wood or concrete in the ground below the frost line.

Structure: Anything built, constructed, or erected which requires permanent location on the ground. This does not include fences.

Structural Alteration: Any change in the supporting members or any substantial change in the roof or exterior walls of a building.

Variance: The relaxing of the requirements of this ordinance where it can be shown that due to unusual conditions of the property, strict application of the regulations would result in undue hardship. The variance will not be contrary to the public interest.

Yard-Front: A yard that extends across the full width of the lot. The depth is measured as the least distance between the front line and the front building.

Yard-Side: The yard between the front and rear yards. The depth is measured as at least the distance from the side of the principle building and the side lot line.

SECTION III

General Provisions

3.1 Jurisdiction: The provisions of this ordinance shall apply to all structures and land within the City of Buffalo, North Dakota, and to each quarter-quarter section of unincorporated territory, the majority of which is located within one-half mile of the city limits in any direction, and any extraterritorial jurisdiction authorized by North Dakota law.

3.2 Compliance: Except as stated in this ordinance, no land shall be used and no building or structure shall be erected or repaired except in conformance with these regulations.

3.3 Interpretation: In interpreting and applying this ordinance, the provisions shall be held to be the minimum requirements. Where this ordinance imposes a greater restriction than existing law, the provisions of this ordinance shall govern.

3.4 Non-conforming Uses:

A. Non-conforming uses of land or buildings existing at the date of adoption of this ordinance may continue provided there are no structural alterations and the non-conforming use shall not be extended to occupy a greater area of land.

B. No building or structure where a non-conforming use has been discontinued for a period of one year or which has changed to a permitted use shall again be devoted to a non-conforming use.

C. A non-conforming structure destroyed or damaged less than 50 percent of its fair market value may be reconstructed within one year of such casualty. If damaged 50 percent or more of its fair market value, the non-conforming structure must be reconstructed in accordance with these regulations.

3.5 Residential Development:

A. No lot shall contain more than one principle residential building.

B. No dwelling unit shall be built on a lot which does not abut on a dedicated public road.

C. No residential dwelling unit shall exceed 35 feet in height. This regulation is to include apartments, sleeping rooms, and owner-occupied residences situated above commercial service and trade establishments.

D. Accessory buildings shall be limited to 15 feet in height and be located at least 8 feet from all lot lines.

3.6 Traffic Visibility: In any district, no fence, structure, or plantings shall be erected or maintained that interference with traffic visibility across a corner.

3.7 Water and Sewage Facilities: To protect the subsurface water supply from pollution and to protect the public health and abate nuisance and odor, construction of privies and cesspools shall be prohibited in the corporate limits of the City of Buffalo unless otherwise permitted by the Buffalo City Council.

3.8 Sewer and Water Regulations: To protect the public health, control water pollution and reduce nuisance and odor, all new developments within the City of Buffalo shall be connected to the City sewer and water systems. Before a building permit is issued for new construction with the City, a sewer and water permit for said development is required.

3.9 Mandatory Use of Sewer and Water: To protect the public health, control water pollution and reduce nuisance and odor, all property owners owning a lot or parcel of land in the city on which there is located a structure occupied or capable of being occupied by human beings, shall be connected to the City sewer and water systems.  Property approved by the City prior to May 26, 2016 to have its own sewer or water system shall be considered grandfathered in.   Any grandfathered in property, upon sale or contract for deed, must be connected to the City sewer and water systems before such sale or contract is conducted. Before a building permit is issued for new construction with the City, a sewer and water permit for said development is required.

3.10 Sewer, Water and Garbage Billing: Sewer, water and garbage bills are due in full the 15th of each month. Any delinquent amount not paid by the 15th of the following month shall warrant a letter from the City of Buffalo stating that payment in full is required within 10 days, or the SWG will be shut off and the Snow Bird policy will go into effect. There will be a $50 reconnect fee, and a second notice may or may not be sent.

SECTION IV

District Regulations

4.1 Classes of Districts: For the purpose of this ordinance, the City of Buffalo is hereby divided into the following classes of districts:

A - Agriculture

R - Residential

C - Commercial

I - Industrial

P - Park

4.2 Official Zoning Map: The boundaries of these districts are established as shown on the map entitled “Official Zoning Map of Buffalo.” This map is made part of this ordinance, and it shall be on file with the City Auditor.

A. The Zoning district boundary lines are intended to follow lot lines, the centerlines of streets or alleys, the centerlines of natural waterways and rivers, railroad rights-of-way, and corporate limit lines as they existed at the time of the adoption of this ordinance.

B. Where uncertainty may exist as to the exact boundary line of a district, the City Council shall make final judgment.

4.3 A - Agriculture District:

A. Purpose: To establish and preserve areas of agriculture and low intensity development which do not significantly change the existing character of the area.

B. Permitted Uses: Agriculture and agriculture-related buildings, farm dwellings, park and outdoor recreational facilities and related buildings for outdoor recreation.

C. Conditional Uses: Junk yards or salvage and scrap yards provided all operations are conducted within an area enclosed on all sides with a solid fence or wall not less than eight (8) feet in height; and feedlots, sanitary disposal facilities, including landfills, mining or gravel removal.

D. Dimensional Standards:

1. Setbacks: 150 feet from all section lines and the centerlines of all roads and highways.

2. Building Heights: Residential buildings shall not exceed 35 feet.

E. District Restrictions: The application of chemical sprays which are noxious or offensive shall not be permitted within 300 feet of a non-farm residential building.

4.4 R - Residential District: Mobile Homes shall be set on a permanent foundation and meet the Federal Manufactured Home Construction and Safety Standards Act of 1974, 24 CFR 3280, which became effective June 1976.

A. Purpose: To establish and preserve general residential neighbors which allow for varied types of recreational development.

B. Permitted Uses: Single-family residences, mobile homes, multi-family residences, boarding and rooming houses, churches, schools, hospitals, and clinics; customary accessory uses; and home occupations.

C. Minimum Lot Dimensions:

1. Yards:

a. Front Yard – 25 feet

b. Rear Yard – 25 feet

c. Side Yard – 10 feet

2. Lot:

a. Lot Width – 75 feet

b. Area of Lot – 7,500 square feet residential unit; 2,000 square feet for each additional multi-family unit.

c. Lot Coverage – 50 percent.

D. Conditional Uses - Mobile Home Parks:

1. Mobile home parks shall contain a minimum of one (1) acre of land and a maximum of six (6) mobile homes per gross acre.

2. Each mobile home shall be placed within a lot at least 50 feet wide and with a minimum area of 5,000 square feet.

3. Each unit shall have a minimum setback of 10 feet within the park and 25 feet from other public roads.

4. Underground utilities including water, sewer, gas, electricity and telephone, shall be provided to each lot in the park.

5. All lots in the park shall be accessible at all times to emergency vehicles.

6. Where the park is served by private streets, those streets shall conform to the design standards recommended by the City.

7. All regulations of the North Dakota Laboratories Department and other regulatory agencies and departments relating to mobile homes shall be complied with.

8. All units in the park shall be served with public water and sewer.

9. Site plan including topographic information, arrangement of lots, block and street pattern location of open spaces, and other data deemed necessary shall be submitted on or before the public hearing.

10. Mobile Homes shall be set on a permanent foundation and meet the Federal Manufactured Home Construction and Safety Standards Act of 1974, 24 CFR 3280, which became effective June 1976.

4.5 C - Commercial District:

A. Purpose: It is the intent of this district to reserve an area for the grouping of businesses and personal services into a concentrated area serving the shopping needs of the City and surrounding trade area.

B. Permitted Uses: Any commercial business or service including grocery, drugs, hardware, clothing, bakeries, eating and drinking places, and professional offices, hotels, motels, public utilities, and transportation and communication facilities.

C. Conditional Uses:

1. Storage facilities for building materials such as lumber, steel, concrete blocks or pipe, provided that these materials are either:

a. Enclosed by a wall or fence equal in height ot the highest pile of materials stored, but not less than 5 feet high; or

b. Stored in an enclosed structure.

2. Sleeping rooms, apartments or owner-occupied residences housed within commercial businesses or service establishments provided that he above uses are secondary to the main commercial use of the building and occupy less than 50 percent of the total floor area.

D. Minimum Lot Dimensions:

1. Yards:

a. Front – No front yard is required

b. Rear – 10 feet, except where adjoining on R-District—then same as R-District.

c. Side – No side yard is required.

2. Lot Size:

No minimum.

4.6 I – Industrial District:

A. Purpose: It is the intent of this district to establish and preserve areas with good public transportation facilities such as highway and rail for industrial development in the locations not incompatible with other zoning districts.

B. Permitted Uses: All C-District uses excluding hotels and motels. Other uses including agriculture, fertilizer plants, grain elevators, feed mills, lumber yards, truck terminals, warehouses and industries.

C. Conditional Uses: Automobile salvage and wrecking operations, industrial and waste salvage operations, and junk yards provided a wall or fence enclosed these operations from public view.

D. Minimum Lot Dimensions:

1. Yards: All industrial uses must be situated at a minimum of 50 feet from any residential property line.

a. Front Yard - 25 feet.

4.7 P – Park District:

A. Purpose: It is the intent of this district to establish and preserve open space, parks, and recreational areas for the benefit of all members of the community, thus enhancing the quality of life.

B. Permitted Uses: Parks and outdoor recreational facilities such as ball diamonds, tennis courts, picnic areas, ice skating rinks, and buildings for recreational purposes.

C. Minimum Lot Size: 10,000 square feet.

SECTION V

Administration and Enforcement

5.1 The administration and enforcement of this ordinance is hereby vested in an appointed administrative official and the City of Buffalo, North Dakota. The City may appoint its City Auditor, or any other qualified person, as its Administrative Official.

A. Administrative Official:

1. Authority and Duties:

a. Issue all building permits and certificates of compliance;

b. Conduct inspections of buildings for compliance with zoning ordinances and other applicable codes or ordinances.

c. Maintain records of the regulations and permits;

d. Report the following to the City Council:

1) All complaints stemming from zoning ordinance;

2) Zoning violations;

3) Applications for conditional permits;

4) Applications for variances.

e. Investigate violations and complaints of violations and shall report them to the City Attorney for appropriate action.

B. City Council:

1. Authorities and Duties:

a. ISSUE CONDITIONAL USE PERMITS.

1) Procedure for application and issuance of a conditional use permit shall be as follows:

a) An application for a conditional use permit shall be submitted to the Administrative Official.

b) The Administrative Official shall report the application to the City Council.

c) Every application for a conditional use permit shall include a plot plan showing:

(1) Legal description of the land to be used;

(2) Location of all structures and all existing and proposed improvements including curb-cut access, off-street parking, and other such facilities;

(3) Building setbacks from all property lines;

(4) Location and type of planting, screening or walls;

(5) A timing schedule indicating the start and completion dates of the development;

(6) Names and addresses of adjacent property owners;

(7) Any additional information that the City Council deems necessary.

d) Within fifteen days of the filing of the application for the conditional use permit, the City Council shall notify in writing adjacent property owners of the proposed conditional use and shall consider their comments, and/or shall set a date for a public hearing as may be requested by the Council or the applicant.

e) If a hearing is requested, it shall be held within sixty days of the filing date of the application.

f) The Administrative Official shall prepare a written statement for the City Council specifying the manner in which the proposed conditional use complies with the provisions governing conditional uses.

(1) The conditional use shall not be detrimental to or endanger public health, safety, or general welfare;

(2) The conditional use shall not subsequently impair or diminish the value and enjoyment of other property in the area;

(3) The conditional use shall not impede the normal and orderly development of the surrounding property;

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

(5) Adequate measures shall be taken to provide entrance to and exit from the property without adverse effects on neighboring properties and traffic congestion in public streets;

(6) The conditional use shall conform to all applicable regulations of the district in which it is located.

b. HEAR AND DECIDE VARIANCES FROM THE TERMS OF THIS ORDINANCE THAT SHALL NOT BE CONTRARY TO PUBLIC INTEREST. THE PROCEDURE FOR HEARING AND DECIDING VARIANCES SHALL BE:

1) An application for a variance shall be submitted to the Administrative Official.

2) The Administrative Official shall report the application to the City Council.

3) Every application for a variance shall include the following:

a) Legal description of property;

b) The reason for the variance request including a description of the property that prevents its reasonable use under the terms of this ordinance;

c) The types of variance requested along with the desired specifications of same;

d) An explanation of whether the hardship is unique to the applicant’s property or of a general nature characteristic of other properties;

e) Names and addresses of adjacent property owners;

f) Any other information that the City Council deems necessary.

4) Within fifteen days the City Council shall notify adjacent property owners in writing of the request for a variance.

5) The Council shall base its findings on evidence present in the applicant and the following conditions before it may approve a request for a variance:

a) The particular surroundings or the topographic condition of the property would result in undue hardship;

b) The variance request is not based on a desire for economic of other gains;

c) The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property;

d) The variance shall not be detrimental to the public welfare or injuries to other properties in the area.

e) The variance shall not be contrary to the interest and purpose of this ordinance.

6) The City Council shall notify the applicant in writing citing the reasons for approval or disapproval.

c. THE CITY COUNCIL SHALL HEAR APPEALS OF ANY PERSON, FIRM OR ORGANIZATION AGGRIEVED BY A DECISION OR RULING OF THE ADMINISTRATIVE OFFICIAL. THE ADMINISTRATIVE OFFICIAL SHALL TRANSMIT TO THE CITY COUNCIL ALL RECORDS ON WHICH HIS OR HER DECISIONS ARE BASED.

1) Procedure for Appeals:

a) An aggrieved person shall file a petition for a hearing to the City Council within thirty days of a decision by the Administrative Official;

b) At the same time, the appeal shall be presented in writing to the City Council and shall specify the grounds for the appeal;

c) The hearing shall be held within a reasonable time after the filing of the petition;

d) The City Council shall take action and send its decision by registered mail, to the aggrieved person.

d. PUBLISH NOTICE OF ALL HEARINGS ONCE A WEEK FOR TWO SUCCESSIVE WEEKS PRIOR TO THE DATE ESTABLISHED FOR THE HEARING IN THE OFFICIAL NEWSPAPER OF THE CITY.

e. INTERPRET DISTRICT BOUNDARIES ON THE ZONING DISTRICT MAP.

SECTION VI

Amendments

6.1 Amendments to the Ordinance: The City Council may from time to time on its own motion or on petition or recommendations by the Zoning Commission amend, supplement, or repeal provisions of this ordinance.

A. Procedures for Amendments:

1. Application for amendments shall be filed with the Administrative Official.

2. The Administrative Official shall notify the Zoning Commission of the proposed amendment.

3. If the zoning map is proposed to be changed, the Zoning Commission shall notify, by registered mail, all property owners fronting or within 150 feet of the property in question at least 15 days prior to public hearing.

4. The application shall be presented to the public at an official public hearing conducted by the Zoning Commission. Notice of the hearing shall be published in the official city newspaper once a week for two consecutive weeks prior to the date established for the hearing. A notice may also be placed in a conspicuous location in the post office.

5. Following the hearing, the Zoning Commission shall submit its recommendations concerning the proposed amendment to the City Council.

6. The City Council shall hold a public hearing on the proposed amendment within sixty days of receipt of recommendations from the Zoning Commission. Notice of the hearing shall be published in the official city newspaper once a week for two consecutive weeks prior to the date established for the hearing.

7. Following the hearing, the City Council shall approve or disprove the proposed amendment.

B. Protests to Amendments:

1. If a protest against an amendment is signed by the owners of 20 percent or more:

a. Of the area of the lots included in such proposed change, or

b. Of the area adjacent, extending 150 feet (excluding streets) from the property to be changed,

the amendment shall not become effective except by a favorable vote of at least three-fourths (3/4) of the members of the City Council.

SECTION VII

Fees

7.1 Fees: For the purpose of administering this ordinance, fees may be established by the City Council.

SECITON VIII

Penalties

8.1 Public Nuisance Per Se: Any building or structure, or any use of premises or land which is in violation of any of the provisions of the zoning ordinances of the City of Buffalo, and is not a nonconforming structure or use, is hereby declared to be a public nuisance per se.

8.2 Complaints regarding Violations: Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Administrative Official. S/he shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

8.3 Enforcement: If the Administrative Official shall find that any of the provisions of this Ordinance are being violated, s/he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. S/he may order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or any other action deemed relevant by the Administrative Official. The notice shall provide a minimum of a thirty (30) day period in which to comply with the notice. The notice shall also state that the person or entity may appeal the order of the Administrative Official to the Buffalo City Council by filing a written appeal within thirty (30) days of the receipt of the notice with the City Auditor, or the Administrative Official who executed the original notice. If the person or entity served with the original notice does not appeal within the thirty (30) day period nor comply with the order of the Administrative Official within the time set out in the notice, the Administrative Official should refer the matter to the City Attorney, The City Attorney may commence criminal proceedings and/or commence civil proceedings to enjoin or abate the violation.

8.4 Penalties for Violation: Any person violating any section of this chapter shall be guilty of an infraction, which is punishable by a maximum fine of $500. Any person convicted of an infraction who has, within one year prior to the commission of the infraction of which he was convicted, been previously convicted of an offense classified as an infraction, may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint or citation shall specify that the offense is a misdemeanor. A class B misdemeanor may be punished by a maximum of $500 or 30 days imprisonment or both.

SECTION IX

Enactment

9.1 Enactment: In order that the land within the City of Buffalo, North Dakota, be zoned in accordance with the policies and purposes of this ordinance, the “Zoning Ordinance, City of Buffalo, North Dakota” is hereby adopted.

SECTION X

Effective date

10.1 Effective Date: This ordinance shall be in full force and effect from and after the date of its final passage and publication.

Date of First Reading: July 6, 1992

Date of second Reading: July 27, 1992

Date of Publication: August 12, 1992

Amended: December 13th, 2000

Amended: June 13th, 2016

Amended: May 13th, 2019