CHAPTER 17

ZONING

Article 1
Authority, Purpose and Definition

17.0101 Authority

The authority for this chapter is granted by Chapters 40-47 and 40-48 of the North Dakota Century Code.

17.0102 Purpose and Intent

The purpose of these regulations is to conserve and stabilize the value of property; to provide adequate open space for light and air; to secure safety from fire, panic and other dangers; to prevent undue concentration of population; to lessen congestion on streets, roads and highways; to facilitate adequate provisions for utilities and facilities, such as transportation, water, sewerage, schools, parks and other public requirements; to promote health, safety, morals and general welfare.

17.0103 Severability

If any section, provision or portion of these regulations are adjudged invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.

17.0104 Repeal

All other ordinances or parts of ordinances of the City inconsistent or in conflict with these regulations, to the extent of inconsistency or conflict only, are hereby repealed.

17.0105 Definitions

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

1. Accessory Use or Building - A subordinate use of building customarily incident to and located on the same lot with the main use of building.

2. Alley - A public or private thoroughfare which affords only a secondary means of access to property abutting thereon.

3. Alteration - As applied to a building or structure, is a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

4. Basement - A story having part, but not more than one-half (½) of its height below grade. A basement is counted as a story for the purpose of height

regulations if subdivided and used for dwelling purposes other than a janitor employed on the premises.

5. Building - A structure designed, built, or occupied as a shelter or roofed enclosure for persons, animals or property, including tents, lunch wagons, dining cars, camp cars, trailers, and other roofed structure on wheels or other supports used for residential, business, mercantile, storage commercial, industrial, institutional, assembly, educational, or recreational purposes. For the purposes of this definition "roof" shall include an awning or other similar covering, whether or not permanent in nature.

6. Building Line - The line between which and the street line or lot line no building or other structure or portion thereof, except as provided in this chapter, may be erected above the grade level. The building line is considered a vertical surface intersecting the ground on such line.

7. Building Height of - The vertical distance from the grade to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

8. Board of Adjustment - The body authorized by the City Council to hear appeals on the enforcement of the provisions of these regulations.

9. Council - The City Council.

10. Dwelling - A building designed or used as the living quarters for one or more families.

11. Dwelling House - A detached house designed for and occupied exclusively as the residence of not more than two families each living as an independent housekeeping unit.

12. Dwelling Unit - One or more rooms providing complete living facilities for one family, including equipment for cooking, or provisions for the same, and including room or rooms for living, sleeping and eating.

13. Dwelling - Single Family - A building having accommodations for and used exclusively by one family.

14. Dwelling - Multi Family - A dwelling or group of dwellings on one plot containing separate living units for three or more families, but which may have joint services or facilities for both.

15. Family - A single individual, doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage, or other domestic bond as distinguished from a group occupying a board house, lodging house, club, fraternity or hotel.

16. Garage, Private - A building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.

17. Lot - A parcel of land occupied or capable of being occupied by one building, and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this chapter.

18. Mobile Home - A structure, able to be transported in one or more sections, to be used as a dwelling with or without a permanent foundation.

19. Mobile Home Park - A tract of land designed and developed to accommodate mobile homes on lots on a purchase, lease or rental basis.

20. Parking Space - An area enclosed or unenclosed, sufficient in size to store one automobile, together with driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

21. Setback - The distance between the lot line and the building line, and/or any projection of the building thereof.

22. Setback Building Line - A building line back of the street line.

23. Street - All property dedicated or intended for public or private street, highway, freeway or roadway purpose or subject to public or private easement therefor.

24. Store - That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and ceiling next above it.

25. Structure - Anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards, but not including fences or walls used as fences.

26. Use - The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

27. Yard - An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

28. Yard, Front - An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot.

29. Yard, Rear - An open unoccupied space on the same lot with the building between the real line of the building and the rear line of the lot and extending the full width of the lot.

30. Yard, Side - An open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a real line or a front line shall be deemed a lot line.

Article 2
Jurisdiction and General Provisions

17.0201 Jurisdiction

The jurisdiction of these regulations shall include all lands within the corporate limits of the City and an area extending one (1) mile in all directions from the corporate boundaries of the City. Said authority to be determined as indicated in Chapter 40-47 of the City Zoning as found in the North Dakota Century Code.

17.0202 Amendments

The City Council may from time to time on its own motion or on petition or by recommendation of the Planning and Zoning Commission, amend, supplement or repeal provisions of these regulations after public hearing.

17.0203 Maps and Boundaries

The boundaries of these districts are hereby established as shown on a map of the city which is on file in the office of the city auditor which map with all explanatory matter thereon shall be deemed to accompany, be, and is hereby made a part of this chapter.

17.0204 Annexed Property

Property which has not been included within a district and which has become a part of the City by annexation shall automatically be classified as lying and being in the R-A residential district until such classification has been changed by an amendment to the Zoning Ordinances as prescribed by law.

17.0205 Application of Regulation

Except as provided in this chapter:

1. Conformity of Buildings and Land. No building, structure, or premises shall be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged, or altered except in conformity with the regulations herein specified for the district, as shown on the official map, in which it is located.

2. Conformity of Buildings. No building, structure or premises shall be erected, altered or used so as to produce smaller yards or less unoccupied area, and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.

3. Conformity of Open Spaces. No yard, court or open space, or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling under this chapter.

17.0206 Non-Conforming Uses

The lawful use of any building, structure, or land existing at the time of the enactment of this chapter may be continued, although such use does not conform with the provisions of this chapter, provided the following conditions are met:

1. Alterations. A non-conforming building or structure may be altered, improved or reconstructed provided such work is not to an extent exceeding in aggregate cost 25 percent of the assessed value of the building or structure, unless the building or structure is changed to a conforming use.

2. Extension. A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building or structure which existed prior to the enactment of this ordinance shall not be deemed the extension of such non-conforming use.

3. Abandonment. A non-conforming use of a building or premises which has been abandoned shall not thereafter be returned to such non-conforming use.

4. Changes. No non-conforming building, structure or use shall be changed to another non-conforming use.

5. Unlawful Use Not Authorized. Nothing in this chapter shall be interpreted as authorization for or approval of the continuance of the use of a structure of premises in violation of zoning regulations in effect at the time of the effective date of this chapter.

6. Certificate of Non-Conforming Use. Upon the effective date of this chapter the City Clerk shall issue a "Certificate of Non-Conforming Use" to all owners of property, the use of which does not conform to the provisions of the use zone in which the property is located.

   a. In accordance with the provisions of this section no use of land, buildings or structures shall be made other than that specified on the "Certificate of Non-Conforming Use", unless said use shall be in conformity with the provisions of the use zone in which the property is located.

   b. A copy of each "Certificate of Non-Conforming Use" shall be filed with the office of the City Clerk. No permit or license shall be issued until said permit or license has been approved by the Zoning Commission.

7. District Changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different

classification, the foregoing provisions shall apply to any non-conforming uses existing therein.

17.0207 Development

The following activities or uses shall constitute development:

1. A change in the type of use of a building, structure or land.

2. A reconstruction or alteration of the size of a building, structure or land.

3. A material increase in the intensity of use of land, such as an increase in the number of businesses, offices or dwelling units in a structure or parcel of land.

4. Commencement of extraction or excavation on a parcel of land.

5. Demolition of a structure.

6. Deposit of refuse, solid or liquid waste or fill on a parcel of land.

7. Alteration of a use which has been abandoned for a period of one year.

8. Alteration or cuts in existing street curbs.

The following activities or uses do not constitute development:

1. The maintenance or improvement of a public road or railroad tract not involving substantial engineering redesign if the work is carried out on land within the boundaries of the right-of-way.

2. Work by any utility not involving substantial engineering redesign for the purpose of inspection, repair, renewal or construction on established right-of-way of any streets, mains, pipes, cables, powerlines, towers, poles, tracts, or the like.

3. Work for the maintenance, renewal improvement of any building or structure, if the work affects only the interior or the decoration of the exterior of the building or structure.

17.0208 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 unless otherwise permitted by the City Council.

17.0209 Conditionally Permitted Uses

Applications for approval of a conditional use shall be submitted to the Planning and Zoning Commission.

The Planning and Zoning Commission shall hold a public hearing before action is taken on the application for approval of a conditionally permitted use. Notice of said hearing shall be published in the official newspaper of general circulation at least one week prior to the hearing.

No application for a condition use shall be granted unless the Planning and Zoning Commission shall find all of the following conditions 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 and improvement 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 been or will be taken to provide ingress and egress so designated as to minimize traffic congestion in the public streets.

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

7. Based upon the Planning and Zoning Commission's findings of the above listed conditions, the City Council shall grant or deny a conditional use. If the City Council does not adhere to the Planning and Zoning recommendations then the Council needs a two-thirds (2/3) to override the Planning and Zoning Commission's recommendations.

17.0210 <u>Land Suitability</u>

No land shall be divided, subdivided or developed for a use which is not deemed suitable by the Planning and Zoning Commission for reasons of soil limitations, inadequate drainage or any other condition likely to be harmful to the health, safety or welfare of the future residents of this area or harmful to the overall community.

No subdivider or developer as a part of the preapplication procedure for subdivisions must request a determination of land suitability providing that he shall provide all necessary maps, data and information for such a determination to be made.

The City Council shall deny or approve the recommendation made by the Planning and Zoning Commission in regard to land suitability.

17.0211 Mobile Homes

There shall be no homes located in the City of Thompson except those presently existing in the original townsite and those homes locating in an area specifically zoned and designated for mobile homes. Said minimum lot size for said mobile homes shall be 75' X 140'. Lots 11 through 16, Block B, Scholler Addition to the City of Thompson are designated for mobile homes. Any mobile homes locating within the City of Thompson as indicated hereinabove from and after September 1, 1990, shall be a minimum of 14' in width and shall have city council approval prior to locating within the City limits.

Article 3
Zoning Districts

17.0301 Zoning Districts

The city is hereby divided into the following Zoning Districts to be known as:

R-A Agricultural Residence

R-1 Residential Districts, Single-Family

R-2 Residential Districts, Two-Family

R-3 Residential Districts, Multi-Family

RMH Residential Mobile Home Districts

C Commercial Districts

I Industrial Districts

17.0302 Agricultural Residence District (R-A)

In an Agricultural Residence District the following buildings and uses are permitted:

1. Dwelling houses occupied by not more than one family.
2. Publicly owned and operated buildings.
3. Churches and parish houses.
4. Hospitals.
5. Nursing and rest homes.
6. Homes for the aged.
7. Playgrounds and parks.

8. Cemeteries.

9. Agricultural, farming and truck gardening, except kennels, animal or poultry farms operated for commercial purposes.

17.0303 Residential District (R-1)

In a single-family district the following buildings and uses are permitted:

1. Dwelling houses occupied by not more than one family.

2. Publicly owned and operated buildings.

3. Churches and parish houses.

4. Hospitals.

5. Nursing and rest homes.

6. Homes for the aged.

7. Playgrounds and parks.

8. Cemeteries.

17.0304 Residential District – Two Family (R-2)

In a two-family district the following buildings and uses are permitted:

1. Dwelling houses each occupied by not more than two families. Each family shall not be allowed more than two roomers or boarders per family.

2. For purposes of this Section 17.0304, townhouses are considered two (2) attached dwelling units and are subject to the following conditions:

   A) Covenants or townhouse agreements shall be recorded with the register of deeds and shall govern the maintenance of common elements such as driveways, sidewalks, party walls, roofs, exterior wall treatments and other conditions deemed necessary for uniformity. No building permit shall be issued prior to City approval of the covenants and/or townhouse association agreements prior to the filing of the same in the office of the register of deeds in and for Grand Forks County.

   B) Each individual unit that is part of a townhouse shall be constructed on a separate platted lot that is designated by lot and block number. All lot lines between individual units shall be on a common wall line. Each lot must contain a minimum area of six thousand (6,000) square feet. The building structure can consume no more than forty percent (40.00%) of the total lot area. The front yard setback is no less than 25 feet. The exterior unit side yard is no less than 5 feet. The rear yard of each individual unit is no less than 25 feet. No building can exceed two (2) stories and the overall building height cannot exceed 35 feet.

3. All other uses permitted in a one-family district.

17.0305 Residential District - Multi-Family (R-3)

In a multi-family district the following buildings and uses are permitted:

1. All uses permitted and as regulated in a two family district.
2. Multi-family dwellings.
3. Private clubs.
4. Lodges or social buildings.
5. Hotels, motels, tourist camps.

17.0306 Accessory Uses in Residential Districts

The following accessory uses and buildings are permitted in residential districts:

1. Offices of professional persons and home occupations when such use does not exceed one-third (1/3) of the main floor space of the dwelling, and is conducted in the principal building and not in an accessory building, and does not employ any persons not residing on the premises.
2. Private garages.
3. Any other accessory use customarily incident to a use authorized in a residential district.
4. Any unattached garage or other accessory building must be located not closer than five (5) feet from the back property line, alley or easement line and five (5) feet from the side lot line, measured from the vertical wall of the building to the side lot line, except for Maxine's 2nd Addition (Woodland Estates) in which the setback is seven (7) feet .

November 7, 2016

17.0307 Commercial District

The following buildings and uses are permitted in the commercial district:

1. Retail stores and shops.
2. Service establishments.
3. Business and professional offices.
4. Eating establishments.
5. Funeral homes and mortuaries.
6. Transportation services.
7. Amusements and recreation.
8. Wholesale business.

9. Storage buildings and warehouses.

10. Any other building or use similar to the uses herein listed in the types of services or goods sold.

11. Any accessory use customarily incident to a use herein listed.

12. All single-family residential dwellings that existed in a commercial district prior to the beginning of the 2019 calendar year.

May 6, 2019

17.0308 <u>Industrial Districts</u>

The following buildings and uses are permitted in the industrial district:

The compounding, assembly, treatment, manufacture, process and packing or articles or materials shall be permitted in the industrial district.

1. Uses permitted. All uses permitted in a C – Commercial District.

2. Uses prohibited. No dwelling or dwelling unit.

Article 4
Area Requirements

17.0401 <u>Area Regulations</u>

In any use district no residence building shall hereafter be erected, established or altered on a lot having a lot area of not less than the square feet required as follows:

R-A:	not less than 11,000 square feet.
R-1 One-family:	not less than 10,000 square feet.
R-2 Two-family:	not less than 11,000 square feet.
R-3 Multi-family:	not less than 12,000 square feet.

and the following minimum lot widths:

R-A:	not less than 60 feet of lot width measured along the front building line.
R-1 One-family:	not less than 75 feet of lot width measured along the front building line.
R-2 Two-family:	not less than 60 feet of lot width measured along the front building line.
R-3 Multi-family:	not less than 60 feet of lot width measured along the front building line.

and the following minimum floor area ratios:

R-A:	not over 40% of the lot area.
R-1 One-family:	not over 40% of the lot area.
R-2 Two-family:	not over 40% of the lot area.
R-3 Multi-family:	not over 40% of the lot area.

June 1, 1992

Article 5
Yard Requirements

17.0501 **<u>Yard Requirements</u>**

R-A - Agricultural Residential District there shall be:

1. A front yard of not less than 25 feet.

2. A side yard on each side of not less than 5 feet.

3. A rear yard of not less than 25 feet.

R-1 - One-family districts there shall be:

1. A front yard of not less than 25 feet.

2. A side yard on each side of not less than 5 feet.

3. A rear yard of not less than 25 feet.

R-2 - Two-family districts there shall be:

1. A front yard of not less than 25 feet.

2. A side yard on each side of not less than 5 feet.

3. A rear yard of not less than 25 feet.

R-3 - Multi-family districts there shall be:

1. A front yard of not less than 25 feet.

2. A side yard on each side of not less than 5 feet.

3. A rear yard of not less than 25 feet.

Article 6
Height Requirements

17.0601 <u>Building Height Limit</u>

In any use district no building shall hereafter be erected or structurally altered to exceed the following height limitation:

1. One and two family units - two and one-half (2½) stories, but not to exceed thirty five (35) feet in height.

2. Multi-family and commercial district - four (4) stories but not to exceed fifty (50) feet.

3. Industrial district - four (4) stories or fifty (50) feet except such limitation does not apply to buildings used for grain storage.

Article 7
Parking

17.0701 Minimum Size Regulations

Each space shall contain a minimum area of not less than three hundred (300) square feet including access drives of width of not less than eight and one-half (8½) feet and depth of not less than twenty (20) feet. Each space shall be adequately served by access drives. Each loading space shall contain a minimum area of not less than five hundred (500) square feet.

17.0702 Reduction and Use of Parking and Loading Space

Off street parking facilities existing at the effective date of this ordinance shall not subsequently be reduced to an amount less than that required under this ordinance for a similar new building or use. Off street parking facilities provided to comply with the provisions of this ordinance shall not subsequently be reduced below the requirements of this ordinance. Such required parking or loading space shall not be used for storage of goods or for storage of vehicles that are inoperable or for sale or rent.

17.0703 Yards

Off-street parking and loading facilities shall be subject to front yard regulations for the use in which the parking is located, except in classes of business districts and classes of industrial districts. In all districts, no off-street parking or loading shall be located within ten (10) feet of any property line which abuts a residential district.

17.0704 Computing Requirements

In computing the number of such parking spaces required the following rules shall govern:

1. Floor space shall mean the gross floor area of the specific use.

2. Where fractional spaces result the parking spaces required shall be construed to be the nearest whole number.

3. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the City Planning Commission.

17.0705 Fences and Planting Screens

1. Off-street parking and loading areas near or adjoining Residence Districts shall be screened by a fence of adequate design or a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the application for a building permit and such fence or landscaping shall be installed as a part of the initial construction.

2. All commercial firms, corporations and businesses located within the city limits shall provide a screening fence or wall around garbage, refuse, and rubbish holding areas of sufficient height to retain any overflow.

17.0706 Access

1. Parking and loading space shall have proper access from a public right-of-way.

2. The number and width of access drives shall be so located as to minimize traffic congestion and abnormal traffic hazard.

3. Vehicular access to business or industrial uses across the street from property in R-A, R-1, R-2, R-3, Residence Districts shall be prohibited.

4. No dwelling shall hereafter be erected or altered unless there is direct access to it from a street or highway through an open space eat least as wide as the dwelling and on the same lot. No building shall hereafter be erected or altered so as to close the present means of access to an existing dwelling or so as to diminish this means of access to a width less than the width of the existing dwelling.

17.0707 Location of Parking Facilities

Required off-street parking space shall be provided on the same lot as the principal building or use, except where otherwise provided for in this section.

17.0708 Combined Facilities

Combined or joint parking facilities may be provided for one (1) or more buildings or commercial uses in R-2 and R-3 Residential Districts, in Commercial Districts, and in Industrial Districts, provided that the total number of spaces shall equal the sum of the requirements for each building or use and provided such space is within five hundred (500) feet of the principal use, and provided the Board of Adjustment deems it impractical to provide parking on the same lot.

17.0709 Construction and Maintenance

1. In R-3 Residential Districts, in Commercial Districts, and Industrial Districts, parking areas and access drives shall be covered with a dustfree, all weather surface with proper surface drainage as required by the City Engineering Department

2. The operator of the principal building or use shall maintain parking and loading areas, access drives, and yard areas in neat and adequate manner.

17.0710 Lighting

Lighting shall be directed away from the public right-of-way and nearby or adjacent Residential Districts.

17.0711 Required Site Plan

Any application for a building permit or for a certificate of occupancy shall include a site plan or plot plan showing off-street parking and loading space to be provided in compliance with this Ordinance.

17.0712 Application of Parking and Loading Regulations

Off-street parking and loading regulations shall apply to all buildings, and uses of land established after the effective date of this Ordinance.

17.0713 Required Number of Off-Street Parking Spaces

Off-street parking areas of sufficient size to provide parking for patrons, customers, supplies, visitors, and employees shall be provided on the premises of each use. Unless otherwise specified in the various use zone classifications, the minimum number of required off-street parking spaces for the following uses shall be as follows:

1. Single Family Dwelling. One (1) parking space. No garage shall be converted into living space unless other acceptable off-street parking space is provided.

2. Two Family Dwelling. One (1) parking space for each family or dwelling unit.

3. Multiple Dwelling. One and one-half (1½) parking spaces for each family or dwelling unit.

17.0714 Required Loading Areas

Loading and unloading areas for goods, supplies, and services shall be sufficient to meet the requirements of each use.

Article 8
Mobile Home Districts

17.0801 Permitted Uses

1. Independent mobile homes located in a well drained area.

2. Parks and playgrounds.

3. Mobile home service buildings such as coin operated washers and dryers, for use of residents of the mobile home park.

4. Office for manager of the mobile home park.

5. Storage building used for storage of vehicles used to tow mobile homes.

6. Storage buildings for blocks, skirts, pipe and other material and equipment required to set up a mobile home.

7. Accessory uses and buildings including swimming pools, bath houses, patios, etc., for use of mobile home residents.

17.0802 <u>Mobile Home Park Requirements</u>

1. Mobile home parks shall contain a minimum of five (5) acres of land and a maximum of eight (8) mobile homes per gross acres.

2. A minimum of ten (10) percent of the gross site area shall be devoted to an open space and recreational facilities.

3. Each mobile home space shall be at least 40 feet wide and an area of 5,000 square feet.

4. There shall be a minimum of fifteen (15) feet between structures.

5. No building shall exceed 35 feet in height.

6. Underground utility hookups shall be provided to each lot in the park. These utilities shall include water, sewer, electricity, telephone and either gas or fuel oil for heating purposes.

7. Off-street parking of one parking space for each mobile home unit shall be provided.

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

9. Each mobile home shall have a setback of a minimum of ten (10) feet within the park and twenty-five (25) feet setback from other public roads adjoining the mobile home park.

10. Where the park is served by private streets, those streets shall conform to the following:

    a. Where parking is to be allowed on both sides of the street, a driving surface of thirty-four (34) feet within a forty (40) feet right-of-way shall be provided.

    b. Where parking is prohibited on both sides of the street, a driving surface of twenty-four (24) feet within a thirty (30) feet right-of-way shall be provided.

11. Each mobile home space shall be provided with garbage stands and cans.

12. All regulations of North Dakota Regulatory Agencies and Departments relating to mobile homes shall be complied with.

Article 9
Enforcement

17.0901 Administrative Official

1. Administrative Official. Except as otherwise provided herein, the zoning administrator shall administer and enforce the provisions of this chapter, including the receiving of applications, the inspection of premises and the issuing of building permits. No building permit or certificate of occupancy shall be issued by him except where the provisions of this chapter have been complied with.

2. Building Permit Required. No building or structure shall be erected, added to, or structurally altered until a permit therefor has been issued by the zoning administrator. All applications for such permits shall be in accordance with the requirements herein and, unless upon written order of the Board of Adjustment, no such building permit or certificate of occupancy, shall be issued for any building where said construction, addition or alteration or use thereof would be in violation of any of the provisions of this chapter.

   a. Matter Accompanying Application.

      There shall be submitted with all applications for building permits two copies of a layout or plot drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this ordinance.

   b. Payment of Fee.

      One copy of such layout or plot plan shall be returned when approved by the zoning administrator together with such permit to the applicant upon the payment of a fee of $5.00 plus a fee of $2.00 per additional $1,000.00 cost of the building or fraction thereof. Where work for which a permit is required by this article is started or proceeded with prior to obtaining said permit, the fees above specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this ordinance in the execution of the work nor from any other penalties prescribed herein.

3. Certificates of Occupancy.

   a. No land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the zoning administrator, stating that the building or proposed use thereof complies with the provisions of this chapter.

b. No nonconforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued by the zoning administrator therefor.

c. All certificates of occupancy shall be applied for co-incident with the application for a building permit. Said certificate shall be issued within 30 days after the erection or alteration shall have been approved.

d. The zoning administrator shall maintain a record of all certificates and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected.

e. No permit for excavation of, or the erection or alteration of or repairs to any building shall be issued until an application has been made for the certificate of occupancy.

f. Under such rules and regulations as may be established by the Board of Adjustment and filed with the zoning administrator, a temporary certificate of occupancy for not more than thirty days for a part of a building may be issued by him.

Article 10
Board of Adjustment

17.1001 Creation of Board

1. Creation, Appointment and Organization. A Board of Adjustment is hereby created. Said Board shall consist of five members for three year terms. The Board shall elect a chairman from its membership, shall appoint a secretary, and shall prescribe rules for the conduct of its affairs.

2. Powers and Duties. The Board of Adjustment shall have all the powers and duties proscribed by law and by this chapter, which are more particularly specified as follows:

   a. Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

   b. Variances. To vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep loss, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. In granting any variance, the Board of Adjustment shall prescribe any conditions that it deems to be necessary or desirable. However, no variance in

the strict application of any provision of this chapter shall be granted by the Board of Adjustment unless is finds:

1. That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings in the neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.

2. That, for reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose.

3. That the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of adjoining buildings and those in the vicinity, the Board, in determining its finding, shall take into account the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.

3. Procedure. The Board of Adjustment shall act in strict accordance with the procedure specified by law and by this chapter. All appeals and applications made to be Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of the ordinance involved and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that it applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Every decision of the Board of Adjustment shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the city auditor.

4. Notice and Hearing. No action of the Board shall be taken on any case until after due notice has been given to the parties and public hearing has been held.

17.1002 <u>Amendments</u>

The governing board may, from time to time, amend this article by supplementing, changing, modifying, or repealing any of the regulations, restrictions or other provisions thereof, or of the district map, or the districts on said map, or of the boundaries of such districts. A proposed amendment may be initiated by the said Board upon its own motion, or upon receipt of a request therefor from the city zoning commission, or upon receipt of a petition therefor from any interested person or persons or their agents.

1. Report by City Zoning Commission - Public Hearing. The governing body shall require a report from the city zoning commission on a proposed amendment before taking a final action thereon. The city zoning commission shall thereupon make a tentative report and hold a public hearing thereon with notice the same required for a public hearing by the governing body before submitting its final report. Such final report shall be submitted within 90 days after the time of referral of the proposed amendments to the city zoning commission unless the governing body is agreeable to an extension of time.

2. Action by governing body - Public Hearing. After the receipt of the required final report on any amendment from the city zoning commission, or in the event of the failure of the city zoning commission to so report within 90 days following the time of referral of the proposed amendment to the city zoning commission, the governing body shall hold a public hearing, after which the proposed amendment may be passed. Not less than 15 days notice of the time and place of holding such public hearing shall first be published in the official newspaper. A hearing shall be granted to any person interested, and the time and place specified.

3. Vote after Protest. If a protest against a change, supplement, modification, amendment or repeal is filed and signed by owners of 20 percent or more:

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

   b. Of those immediately adjacent in the rear thereof extending 150 feet therefrom; or

   c. Of those directly opposite thereto extending 150 feet from the street frontage of such opposite lots.

   The amendment shall not become effective except by the favorable vote of three-fourths of all the members of the governing body.

17.1003 <u>Enforcement</u>

The erection, construction, reconstruction, alteration, repair, conversion or maintenance of any building or structure, or the use of any building, structure of land in violation of this article, or of any regulation, order, requirement, decision or determination made under authority conferred by this article, shall constitute the maintenance of a public nuisance and any appropriate action or proceeding may be instituted by the city, through any administrative official, department, board or bureau charged with the enforcement of this article:

1. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;

2. To restrain, correct or abate such violation;

3. To prevent the occupancy of the building, structure or land; or

4. To prevent any illegal act, conduct, business or use in or about such premises.

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".