

# **DEVELOPMENT CODE**

## **ZONING – SUBDIVISION REGULATIONS**

**ARGUSVILLE, NORTH DAKOTA**

**2004**

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# ZONING REGULATIONS

## 1. INTRODUCTION

### 1.1 Title

This chapter shall be known as the “Development Code” for the City of Argusville, North Dakota.

### 1.2 Authority

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

### 1.3 Purpose

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

### 1.4 Intent

It is the intent of these regulations to implement the plans and policies of the City Argusville of the use and enjoyment of land resources.

- 1.4.1 To promote orderly development of the city and to prevent conflict among land uses and structures.
- 1.4.2 To secure safety from fire, panic, noxious fumes, and other dangers.
- 1.4.3 To facilitate adequate provisions for water, sewerage, transportation and other customary municipal services.
- 1.4.4 To regulate the use and division of land within the city limits and within 1 mile extra territorial jurisdiction.
- 1.4.5 To regulate the proper arrangement of streets, alleys and roads for convenient and efficient access to the adjoining properties.
- 1.4.6 To protect the value of land and buildings and maintain harmony and consistency among land uses.
- 1.4.7 To protect the existing properties against nuisances that interfere with the use and enjoyment of property, endanger personal health or safety or is offensive to the senses, as provided under chapter VIII of the City of Argusville.

### **1.5 Jurisdiction**

These regulations shall apply to all lands within the corporate limits of the City of Argusville, North Dakota and one mile outside of its corporate limits, know as extra territorial planning area.

### **1.6 Interpretation**

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

### **1.7 Severability**

If any part of these regulations is found invalid by a Court of Competent Jurisdictions, the remainder of these regulations shall not be affected.

### **1.8 Exceptions**

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

### **1.9 Repeal**

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

### **1.10 Effective Date**

This code shall be effective upon adoptions by the City Council of the City of Argusville, as provided by the North Dakota Century Code.

## **2. GENERAL PROVISIONS**

### **2.1 Comprehensive Plan**

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

**2.1.1** To conserve and enhance the taxable value of land and buildings.

**2.1.2** To encourage the most appropriate use of land in the city and its one mile planning area.

**2.1.3** To regulate and restrict the location and intensity of use of buildings and land.

**2.1.4** To separate and control unavoidable nuisance producing uses to minimize the adverse impacts on the surrounding areas or uses.

**2.1.5** To facilitate traffic movement and promote development of compatible uses.

## **2.2 Non-conforming Uses**

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

## **2.3 Land Suitability**

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

## **2.4 Conditionally Permitted Uses**

Where a use is classified as a conditional use under this code and exists at the date of adoption of this code, it shall be considered a permitted use. Where a use is not allowed as a conditional use or permitted use, under this code, and exists at the date of adoption of this code, it shall be considered non-conforming and shall be subject to the nonconforming buildings and use provision, Section 1.1.

## **2.5 Dedication of Land for Streets**

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

## **2.6 Residential Development**

No lot shall contain more than one principal single family residential building, and no dwelling unit shall be built on a lot which does not abut a dedicated public street. Accessory buildings shall be smaller than the principal building and shall be limited to fifteen (15) feet in height and be located at least five (5) feet from all lot lines.

## **2.7 Public Sewer System**

To protect the public health, to control water pollution and to reduce nuisance and odor, all new development within the city shall be connected to the city sewer system. Construction and use of septic tanks, privies, and cesspools is prohibited within the corporate limits of the city.

### **3. ZONING DISTRICT BOUNDARIES AND MAP**

#### **3.1 Zoning Districts**

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

##### **3.1.1 Agricultural District**

##### **3.1.2 Residential District**

##### **3.1.3 Commercial District**

##### **3.1.4 Industrial District**

#### **3.2 Zoning District Map**

##### **3.2.1 Zoning District Map**

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

##### **3.2.2 Public Streets as Boundary**

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

##### **3.2.3 Lot Line as Boundary**

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

##### **3.2.4 District Description for Unsubdivided Land**

For unsubdivided property, zoning district boundaries are determined by metes and bounds description or by a legal description as deemed necessary.

## SUMMARY OF ZONING DISTRICT REQUIREMENTS

District	Lot Area	Lot Width in Feet	Yard Requirements in feet		
			Front	Rear	Side
<b>Agricultural</b>					
	For Agricultural uses 40 acres min.	200 ft. minimum	100	50	50
	For Residential 2 acres min.				
	For Non-residential 2 acres min.				
<b>Residential</b>					
	7,500 sq. ft. for single family	75 ft. minimum	25	25	10
	4,000 sq. ft. per unit for multi-family				
<b>Commercial</b>					
	10,000 sq. ft. for commercial	75 ft. minimum	30	30	10
	7,500 sq. ft. for single family	75 ft. minimum	25	25	10
	4,000 sq. ft. per unit for multi-family	75 ft. minimum	25	25	10
<b>Industrial</b>					
	Minimum 1 acre	100 ft. minimum	50	50	20

### 3.2.5 Vacated Areas

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

### 3.2.6 Zoning District Boundary Interpretation

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

### 3.2.7 Certification

The official zoning map shall bear a certificate with the signature of the City Mayor and certification of the City Auditor and date of adoption of the zoning map as an integral part of this code.

## 4. ZONING DISTRICT REGULATIONS

### 4.1 Agricultural District



#### **4.1.1 Purpose**

The purpose of this district is to provide for preservation and protection of agricultural uses while in existence in the city and its one-mile extra territorial planning area. All undeveloped or farmlands are in agricultural district unless noted otherwise on the official zoning map.

#### **4.1.2 Permitted Uses**

- (1) All types of farming and ranching operations including dairying, but excluding feed lots, poultry, fish and fur farming.
- (2) Accessory buildings and structures.
- (3) Churches and cemeteries.
- (4) Golf courses, parks and play fields.
- (5) Home occupations.
- (6) Public and private schools, public buildings and facilities.
- (7) Single Family Non-farm Residential Units
- (8) Construction and maintenance of drainage systems to manage the water run-off and water reservoirs
- (9) General utility lines and pipelines including substations for transformers, pumping stations and lift stations.

#### **4.1.3 Conditionally Permitted Uses**

- (1) Feedlots, poultry, fish and fur farming subject to provisions of Section 5.4.
- (2) High voltage transmission lines and accessory structures.
- (3) Manufacturing and processing of agricultural products produced in the area but not including rendering plants and fertilizer plants.
- (4) Radio, TV stations and towers.
- (5) Sale and services of agricultural equipment and machinery.
- (6) Salvage and junk yards, subject to provisions of Section 5.3.
- (7) Sewage lagoons and waste water treatment facilities.

- (8) Skeet, trap and rifle ranges if nearer than 1,000 (one thousand) feet from any residence.
- (9) Storage of farm related chemicals.
- (10) Veterinary clinic, animal hospitals and domestic animal kennels not nearer than five hundred (500) feet from any residence except the residence of the owner or operator.
- (11) Sanitary landfills shall be subject to the provisions of Section 5.6.
- (12) Mining of sand and gravel shall be subject to the provisions of Section 5.5.

#### **4.1.4 Lot Area and Lot Width**

- (1) For agricultural uses, the area shall not be less than forty (40) acres.
- (2) For non-farm residential uses, the lot area shall not be less than two (2) acres.
- (3) For non-residential uses, the lot area shall not be less than two (2) acres.
- (4) The lot width for any use in agricultural district shall not be less than two hundred (200) feet.

#### **4.1.5 Yard Requirements**

- (1) The minimum front yard, measured from the centerline of any public road or street, shall not be less than one hundred (100) feet.
- (2) The minimum rear yard, measured from the rear lot line shall not be less than fifty (50) feet.
- (3) The minimum side yard, measured from the side lot line shall not be less than fifty (50) feet.

#### **4.1.6 Building Height**

- (1) The building height for residential buildings shall not exceed two and one half stories (2 ½) or thirty five (35) feet.
- (2) The building heights for manufacturing of agricultural products, radio and TV towers shall be determined by the City Council.

- (3) The building height, excepting the radio and TV towers and church steeples, for all other uses shall not exceed thirty five (35) feet.

#### **4.1.7 Parking Requirements**

For non-farm uses the parking requirements shall be subject to the provisions of Section 5.1.

#### **4.1.8 Sign Requirements**

Sign requirements shall be subject to the provisions of Section 5.2.

### **4.2 Residential District**

#### **4.2.1 Purpose**

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

#### **4.2.2 Permitted Uses**

- (1) Single family detached dwelling units including manufactured units placed on a permanent foundation or basement, but not including mobile homes.
- (2) Churches, schools and public facilities including libraries, parks, schools, golf courses, and post offices.
- (3) Accessory buildings and structures.
- (4) Home occupation.
- (5) Day care facilities.

#### **4.2.3 Conditional Uses**

- (1) Public Facilities including public water and sewerage treatment lagoons.
- (2) Multi-family dwelling units including two or more units per building.
- (3) Mobile homes provided that they are placed on a permanent foundation or a basement made of concrete. Loose blocks shall not constitute a permanent foundation.
- (4) Mobile home parks, where public sewer is available, with the following requirements:

- (a) A site plan showing location of streets, utilities, off-street parking, driveways, walkways, blocks, lots, playground and park area.
- (b) The mobile home park shall contain a minimum of three (3) acres of land.
- (c) Each mobile home shall be placed on a lot at least fifty (50) feet wide with a minimum area of five thousand (5,000) square feet.
- (d) Each unit shall be placed on a stand and anchored to provide a firm foundation.
- (e) Each unit shall have a minimum setback of ten (10) feet within the private park and thirty (30) feet from the public streets.
- (f) Each unit shall have a minimum side yard of ten (10) feet and a rear yard of twenty (20) feet.
- (g) The design and construction of the private streets within the park shall conform to the design standards of the city.
- (h) All units shall be served by underground utilities unless waived by the City Council.
- (i) There shall be two (2) off-street parking spaces per mobile home.

#### **4.2.4 Lot Area, Lot Width and Coverage**

- (1) The minimum lot area for single family units shall be seven thousand five hundred (7,500) square feet.
- (2) For multi-family uses, the minimum lot area shall be four thousand (4,000) square feet per unit provided that public sewer is available.
- (3) The minimum lot width shall be no less than seventy-five (75) feet. Maximum lot coverage shall be fifty percent (50%) exclusive of the yard requirements.

#### **4.2.5 Yard Requirements**

- (1) The minimum front yard, measured from the front lot line, shall be no less than twenty-five (25) feet.
- (2) The minimum rear yard, measured from the rear lot line, shall not be less than twenty-five (25) feet.

- (3) The minimum side yard, measured from the side lot line, shall not be less than ten (10) feet on each side of a lot.

#### **4.2.6 Building Height**

No building shall be more than two and one half (2 ½) stories or thirty five (35) feet high, excepting church steeples.

#### **4.2.7 Parking Requirements**

- (1) There shall be a minimum of two (2) off-street parking spaces for each residential dwelling unit.
- (2) The parking needs for the conditionally permitted uses and non-residential uses shall be subject to the requirements of Section 5.1.

#### **4.2.8 Sign Requirements**

- (1) There shall be no more than one identification sign per residential dwelling structure not exceeding twelve (12) square feet in area. The sign may be wall, pedestal, ground, or projecting type but it shall not project into the public right-of-way or public property.
- (2) Temporary signs including “for Sale”, “For Rent”, political campaign signs, greeting signs and realty signs are permitted.
- (3) For non-residential uses, the provisions of Section 5.2 shall apply.

### **4.3 Commercial District**

#### **4.3.1 Purpose**

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

#### **4.3.2 Permitted Uses**

- (1) Accessory uses.
- (2) Advertising signs and billboards.
- (3) Amusement places including bowling alleys, athletic clubs, pool halls and similar indoor facilities.

- (4) Automobile accessory stores and automobile dealerships.
- (5) Banks and financial institutions.
- (6) Boarding and rooming houses.
- (7) Fraternal and philanthropic organizations.
- (8) Hotels and motels.
- (9) Professional offices for businesses and services without limitation.
- (10) Public buildings and facilities.
- (11) Restaurants including all types of eating and drinking establishments.
- (12) Retail stores of all types including but not limited to food, drug, clothing, parts, materials and the like.
- (13) Multiple family dwelling units.

#### **4.3.3 Conditional Uses**

- (1) Contractor's yards and operation.
- (2) Processing and packaging of materials.
- (3) Single family dwelling units, sleeping rooms.
- (4) Storage and sale of chemicals, explosives and the like.
- (5) Warehouses and wholesaling distributorships.

#### **4.3.4 Lot Area and Lot Width**

- (1) The minimum Lot area for commercial use shall be ten thousand (10,000) square feet.
- (2) The minimum lot area for residential uses shall be the same as R-Residential district.
- (3) The minimum lot width for commercial district shall be seventy-five (75) feet.

#### **4.3.5 Yard Requirements**

- (1) The minimum front building line, measured from the front lot line, shall be thirty (30) feet.
- (2) The minimum rear building line, measured from the rear lot line, shall be thirty (30) feet.
- (3) The minimum side building line, measured from the interior side of the lot shall be ten (10) feet.

#### **4.3.6 Building Height**

The building height requirements in commercial district shall not be more than thirty-five (35) feet excepting farm related buildings and communication towers.

#### **4.3.7 Parking Requirements**

- (1) The front yard and the rear yard spaces may be used for parking.
- (2) Parking shall be subject to the provisions of Section 5.1.

#### **4.3.8 Sign Requirements**

Signs in commercial district shall be subject to the provisions of Section 5.2 shall apply.

### **4.4 Industrial District**

#### **4.4.1 Purpose**

The industrial district is primarily established to accommodate industrial uses and facilities appropriate to the city. It is planned to encourage grouping of related industrial uses for preventing intrusion on other uses specifically residential areas and to maintain an orderly, functional and efficient industrial land use system.

#### **4.4.2 Permitted Uses**

- (1) Accessory uses.
- (2) Agricultural chemical production and storage.
- (3) Any industrial or manufacturing operation provided that: (a) dust, fumes, odors, smoke, vapor, noise, lights and vibration shall be confined within the industrial

district, and: (b) outdoor storage, equipment and refuse areas shall be concealed from view abutting rights-of way.

- (4) Any production, processing and treatment of products such as battery and tire service, concrete and asphalt products, dairy processing, bottling works, ice and cold storage plants, machine and sheet metal shops provided that all operations be conducted entirely in enclosed buildings.
- (5) Building material and supply establishments.
- (6) Contractor's yards and construction shops.
- (7) Electric power production and substations.
- (8) Fuel sales establishment including bottle gas.
- (9) Public utility buildings including water and waste water facilities and accessories.
- (10) Radar stations and towers.
- (11) Radio and TV stations and studios.

#### **4.4.3 Conditional Uses**

- (1) Local and regional sanitary landfills, compost sites and incinerators.
- (2) Salvage or junk yards.
- (3) Storage and sale of chemicals, explosives and the like.
- (4) Conditional uses shall not be located nearer than five hundred (500) feet from any residential area.

#### **4.4.4 Lot Area and Lot Width**

- (1) The minimum lot area for industrial district shall be one acre.
- (2) The minimum lot area for industrial district shall be one hundred (100) feet.

#### **4.4.5 Yard Requirements**



- (1) The minimum setback from any street measured from the right-of-way, shall be fifty (50) feet.
- (2) The minimum rear building line, measured from the rear lot line, shall be fifty (50) feet.
- (3) The minimum side building line, measured from the side lot line, shall be twenty (20) feet.
- (4) No building or structure shall be located a minimum of one hundred (100) feet from the boundary of residential area.

#### **4.4.6 Building Height**

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

#### **4.4.7 Parking Requirements**

Parking in the industrial district shall be subject to the provisions of Section 5.1.

#### **4.4.8 Sign Requirements**

Signs in the industrial district shall be subject to the provisions of Section 5.2.

## **5. SPECIAL PROVISIONS**

### **5.1 Off-Street Parking**

#### **5.1.1 Purpose**

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

#### **5.1.2 General Requirements**

- (1) An off-street automobile parking space shall be at least nine (9) feet wide and twenty (20) feet long, exclusive of access drives.
- (2) All open off-street parking areas with four (4) or more spaces and all loading berths shall be: (a) improved with all weather surface to provide a durable and dust free surface; (b) graded to dispose of all surface water run-off but not be diverted to adjoining properties.

#### **5.1.3 Special Requirements**

- (1) No building shall be erected or enlarged without meeting the following parking requirements:
  - a) Business; professional or public office building, studio, bank, medical or dental clinic, three (3) parking spaces plus one additional space for each four hundred (400) square feet of floor area over one thousand (1,000) square feet.
  - b) Private club or lodge; one parking space for each two hundred (200) square feet of service area.
  - c) Restaurant, eating and drinking establishment; one parking space for each one hundred (100) square feet of floor area.
  - d) For industrial uses there shall be one off-street parking space for every two (2) employees.

## **5.2 Signs**

### **5.2.1 Purpose**

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

### **5.2.2 General Requirements**

- (1) Directory signs shall not be larger than twenty (20) square feet in area for permitted uses.
- (2) Directory signs for conditional uses shall not be larger than forty (40) square feet.
- (3) Advertising signs shall not be larger than ninety-six (96) square feet.

### **5.2.3 Special Requirements**

- (1) Signs in the residential district shall be limited to: (a) One sign per dwelling structure not exceeding twelve (12) square feet in area which may be wall, pedestal, ground or projecting type; (b) One temporary sign such as “For Sale”, “For Rent”, not exceeding twenty (20) square feet in area.
- (2) Signs in the commercial and industrial districts shall be limited to: (a) One general identification sign per business not exceeding fifty (50) square feet in area which may be wall, pedestal, ground or projecting type; (b) Temporary signs including “For Sale”, “For Rent”, political campaign signs, greeting signs and rally signs not exceeding fifty (50) square feet in area; (c) Directory and

advertising signs in agricultural, commercial and industrial districts shall not be larger than ninety six (96) square feet and not placed nearer than six hundred (600) feet apart.

### **5.3 Junk or Salvage Yards**

#### **5.3.1 Purpose**

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

#### **5.3.2 Site Approval Requirements**

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

#### **5.3.3 Locational Standards**

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

### **5.4 Feed Lots**

#### **5.4.1 Purpose**

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

#### **5.4.2 General Requirement**

- (1) All feed lots as defined by this code are only permitted as conditional uses subject to the provisions of this code and the requirements of the North Dakota State Health Department.
- (2) All feed lots shall be designed and constructed with all reasonable preventative measures to avoid surface run-off including construction of sealed collection and retention ponds.
- (3) Where appropriate, there shall be sufficient drainage to avoid pollution of the ground water from the standing effluents.
- (4) Feed lots shall not be placed in the floodplains.
- (5) The applicant, as a part of site approval application, shall submit a plan for removal and disposal of the liquid and solid waste generated by the feed lot.
- (6) No feed lot shall be located nearer than five hundred (500) feet form a residential development in the extra territorial area or corporate limits of the city.

### **5.5 Mining of Sand, Gravel, Clay and General Ground Excavation**

#### **5.5.1 Purpose**

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

#### **5.5.2 Site Approval Requirements**

All excavation sites require approval by the City Council.

#### **5.5.3 Data Submission Requirements**

- (1) A site plan for operation and reclamation of the mined land including maps showing location of the land to be mined, location of roads and point of access to the site, maps showing the existing and proposed contours after the land is mined an a time table for operation of the site.
- (2) A guarantee that the reclamation of the site be completed within one year of the closure of the operation of the site.

- (3) Proof of compatibility with the existing landform including the vegetation, surface and ground water resources.

#### **5.5.4 Proximity to Existing Uses**

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

#### **5.5.6 Permit Requirements**

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

### **5.6 Sanitary Landfills and Solid Waste Sites**

#### **5.6.1 Compliance with State Laws and Rules**

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

#### **5.6.2 City Code and Procedures**

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

#### **5.6.3 Purpose**

The purpose of these provisions is to protect public health, ground and surface water, conflict with present land uses and preservation and protection of natural resources in the city.

#### **5.6.4 Site Approval Requirements**

All solid waste sites require a review by the City Council.

#### **5.6.5 Locational Standards**

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

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

#### **5.6.6 Data Submission Requirements**

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

#### **5.6.7 Statement of Findings**

Upon the public notification and public hearing, the City Council shall determine whether the proposed site meets the requirements of this code.

#### **5.7 Garden Sheds**

A garden shed shall be no larger than fourteen (14) feet by fourteen (14) feet and no greater than twelve (12) feet in height. Garden sheds shall be located no less than three (3) feet from the rear and side lot lines in rear corners of the property. There shall be no more than two (2) garden sheds on any zoning lot. Said structures shall have doors facing into the property.

#### **5.8 Public Nuisances**

Public nuisances including but not limited to noxious weed, smoke, gases, radio interference, noise, accumulation of junk, trash, rubbish, automobiles, dead or diseased trees shall be subject to the provisions of the City Ordinances.

#### **5.9 Recreational Vehicles and Travel Trailers**

The use of recreational vehicles, travel trailers and other trailers used for recreational purposes or temporary occupancy shall be limited to thirty (30) days per year within the city limits of the city.

## **6. RULES AND DEFINITIONS**

### **6.1 Compliance**

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

### **6.2 Word Use**

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

**6.2.1** Words used in present tense shall include the future.

**6.2.2** Words used in singular number shall include the plural number and the plural the singular.

**6.2.3** Shall is a mandatory word and not discretionary.

**6.2.4** May is a permissive word.

**6.2.5** The word “lot” shall also mean “parcel”, “piece” and “plat”.

**6.2.6** The word “building includes all structures and structure includes buildings.

### **6.3 Definitions**

**6.3.1** “**Accessory Building and Uses**” means a subordinate building or portion of the main building the use of which is clearly incidental to and serves exclusively to the principal building or principal use and shall be located on the same zoning lot.

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

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

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

- 6.3.5 “Basement”** means a story, partly underground with more than one-half of its height below grade.
- 6.3.6 “Building”** means any structure designed or intended for shelter, housing, business, office, and accommodation of persons, animals, chattels or property.
- 6.3.7 “Building Area”** means that portion of the zoning lot that can be occupied by the principal use, excluding the front, rear and side yards.
- 6.3.8 “Building Height”** means vertical distance from the grade to the highest point of the roof.
- 6.3.9 “Building Line”** means a line establishing the minimum distance that structures may be placed from the lot lines or street right-of-way. For the purposes of this code the building line is the same as setback line.
- 6.3.10 “Building, Principal”** means a building, the principal use of which is single family and multi-family dwellings, and offices, shops, stores and other uses.
- 6.3.11 “Channel”** means a natural or man-made watercourse for conducting the flowing water.
- 6.3.12 “City”, “City Council”** means the governing body of the City of Argusville.
- 6.3.13 “Club or Lodge”** means a private club or lodge which is a nonprofit association of persons for the purpose of gatherings and entertaining members including consumption of food and beverages.
- 6.3.14 “Comprehensive Plan”** means a guide for management of the physical resources and development of the city.
- 6.3.15 “Conditional Use”** means use of a special nature not automatically permitted in a zoning district and which requires review and approval of the City Council after a public hearing. It is a use which would not be appropriate in a particular zoning district, but which if controlled as to the number, location, or relation to the surrounding uses and the area, would be consistent with the purpose and intent of these regulations. A conditional use is permitted in a district specifically permitting it, subject to the approval of the City Council and only when the council finds that such use meets all of the requirements applicable to it as specified in the city codes including these regulations.
- 6.3.16 “Conforming Building or Structure”** means a building or structure which complies with all requirements of this code and other regulations adopted by the city.
- 6.3.17 “Developer”** means the owner, or agent of the land interest to be subdivided.



- 6.3.18 “Development”** means any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings, structures or accessory structures, the construction of additions or alterations to buildings or structures, ditching, lagooning, dredging, filling, grading, paving, excavation and drilling operations.
- 6.3.19 “Development Plan”** means a document including maps and data for physical development of an area as provided by this code.
- 6.3.20 “District Zoning”** means a section or sections of Argusville for which regulations governing the use of building and premises, the building heights, size of yards, lot area, lot width and the use are uniform.
- 6.3.21 “Dwelling”** means a structure containing only one dwelling unit designed to be located on a permanent foundation as required by state and/or local requirements and, if site built, constructed in accordance with the provisions of the applicable State and City Codes governing construction or, if manufactured off site, constructed in accordance with either the City Code governing construction or the HUD Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280) which became effective June 15, 1976. All single-family dwellings shall be considered and taxed as real property, as provided by law. Each single-family dwelling shall have a minimum overall front width of twenty-two feet (22’), minimum overall depth of twenty-two feet (22’), and a minimum main floor living space square footage of 900 square feet for a one-story structure for all districts in which a single-family structure is allowed. The design, location and appearance of the single-family structure must be compatible with existing dwellings in the area. The roof on all single-family dwellings shall be pitched with a minimum vertical rise of four inches (4”) for each twelve inches (12”) of horizontal run and shall consist of shingles or other non-reflective roof material customarily used for conventional dwellings and be approved by the Building Administrator. The exterior material on all single-family dwellings shall be of a color, material and scale customarily used on existing dwellings within the general area and shall extend to the ground, except that when a solid concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation. The exterior material of the dwelling shall be approved by the Building Administrator.
- 6.3.22 “Dwelling, Multiple Family”** means a single building or portion thereof, containing two (2) or more dwelling units.
- 6.3.23 “Dwelling, Single Family”** means a building containing one dwelling unit only.
- 6.3.24 “Easement”** means a right to the use of land for specific purpose, such right being held by someone other than the owner who holds the title to the land.
- 6.3.25 “Encroachment”** means any fill, building, structure or use including accessory uses projecting into the required yard areas or public and private property.

- 6.3.26 “Establishment”** means a place of business for processing, production, assembly, sales, service of goods and materials.
- 6.3.27 “Extra Territorial Area”** means areas surrounding the City of Argusville within one mile of the city corporate limits in all directions, where the city has zoning and platting control under the provisions of the North Dakota Century Code.
- 6.3.28 “Feed Lot”** means a parcel of land which contains a commercial operation for feeding or raising of two hundred (200) or more animals which is operated a separate activity and not incidental to farming.
- 6.3.29 “Final Plat”** means the map, plan, or record of a subdivision and any accompanying material prepared in conformance with this code.
- 6.3.30 “Frontage”** means the front part of a lot abutting a public right-of-way, or road or highway.
- 6.3.31 “Grade”** means the land elevation at the horizontal intersection of the ground and the building.
- 6.3.32 “Home Occupation”** means any occupation which: (a) carried on in a dwelling unit by members of the family; (b) is clearly secondary to the use of residential dwelling units and (c) does not create excessive noise, traffic or conflict with adjoining uses.
- 6.3.33 “Hotel or Motel”** means a building which lodging accommodations, with or without meals are provided for compensation.
- 6.3.34 “Improvements”** means street grading, surfacing, installations of sidewalks, curb, gutter, water, sanitary and storm sewer systems, culverts, bridges, trees as may be required by the city.
- 6.3.35 “Junk or Salvage Yard”** means an open area where waste or scrap material, including parts of used motor vehicles, appliances and farm implements are bought, sold, exchanged, stored, baled, parked, disassembled or handled.
- 6.3.36 “Kennel, Animal”** means any premises where dogs, cats and other household pets are boarded, bred and maintained for compensation.
- 6.3.37 “Lot”** means a piece, parcel, lot or area of land established by survey, plat or deed, that meets the yard requirements and fronts on a street.
- 6.3.38 “Lot, Corner”** means a lot abutting two (2) public streets at their intersection.
- 6.3.39 “Lot Coverage”** means the total surface area of a lot which is covered by any type of structure.

- 6.3.40 “Lot Depth”** means the average horizontal distance between the front lot line and the rear lot line.
- 6.3.41 “Lot Lines”** means the property lines bounding the lot.
- 6.3.42 “Lot of Record”** means a lot, which is a part of a subdivision or parcel of land which has been recorded in the office of Cass County Register of Deeds.
- 6.3.43 “Lot Width”** means the horizontal distance between the side lot lines of a lot measured at the front building setback line.
- 6.3.44 “Lot, Zoning”** means a single lot, parcel, or tract of land within a zoning district developed or to be developed.
- 6.3.45 “Major Plat”** means a plat of subdivision containing five (5) or more lots.
- 6.3.46 “Manufactured Home”** means a factory built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with the Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280) which became effective June 15, 1976, promulgated by the United States Department of Housing and Urban Development.
- 6.3.47 “Minor Plat”** means a plat of subdivision containing less than five (5) lots.
- 6.3.48 “Mobile Home”** means a factory built structure, transportable in one or more sections and has at least 720 or more square feet and is designed as a year-round dwelling unit to be placed on a permanent foundation or a basement. The mobile home must comply with the latest Manufactured Home Safety Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development. A recreational travel trailer is not a mobile home.
- 6.3.49 “Mobile Home Park”** means a parcel of land for which a detailed plan indicating the location of lots, block, streets, facilities and utilities subject to the requirements of this code is approved by the City Council.
- 6.3.50 “Nonconforming Building”** means any building or structure, which does not conform with any or all of this code but existed at the time of adoption of the code.
- 6.3.51 “Nonconforming Use”** means any principal use of land or building which does not conform with any or all parts of this code but existed at the time of adoption of the code.

- 6.3.52 “Non-residential Plat”** means a plat whose intended use is other than residential such as commercial or industrial.
- 6.3.53 “Nursing Home or Convalescent Home”** means a home for the aged or infirm which unrelated persons are accommodated for compensation.
- 6.3.54 “Parking Space”** means an off-street area designated for parking of automobiles accessible from a public street or alley and shall be no less than nine (9) feet by twenty (20) feet.
- 6.3.55 “Permitted Uses”** means those uses, buildings or structures which comply with the provisions of specific zoning districts because of the similarities in nature and relationship to each other. Permitted uses are distinct from conditional uses that are authorized only if certain requirements of this code are met after a public hearing and approval by the City Council.
- 6.3.56 “Person”** means any individual, firm, corporation, partnership or legal entity.
- 6.3.57 “Planned Development”** means a grouping of buildings and structure on a site of two (2) or more acres in single ownership which is not limited by the yard or building height limitations but is based on a detailed development plan and recorded in the Office of Cass County Register of Deeds upon approval by the City Council.
- 6.3.58 “Planning Commission”** means a citizen group appointed by the City Council under the authority of North Dakota Laws, as an advisory group only.
- 6.3.59 “Preliminary Plat”** means the preliminary plan of a subdivision and any accompanying material prepared in accordance with the requirements of this code.
- 6.3.60 “Public Way”** means any dedicated and recorded right-of-way including alleys, sidewalks, streets, roads or highways.
- 6.3.61 “Regional Flood”** means a flood determined by the state and Federal Emergency Management Agency which is representative of large floods known to have occurred in Cass County, North Dakota.
- 6.3.62 “Replat”** means a change in approved or recorded plat requiring changes in street layout, lot lines, or blocks.
- 6.3.63 “Right-of-Way”** means a strip of land designated or dedicated for streets, sidewalks, railroads, electric transmission line, telephone and telegraph lines, oil or gas pipelines, sanitary, storm, or water systems.
- 6.3.64 “Service Station”** means any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to the motorist.

- 6.3.65 “Setback”** means the minimum horizontal distance between the building line and the related front, side, or rear property line.
- 6.3.66 “Sign”** means any emblem, name, identification, description or illustration which is used for outdoor advertising having permanent location on the ground or attached to or painted on a building including bulletin boards, billboards and poster boards, but excluding real estate for sale signs, political campaign signs, public information and traffic signs.
- 6.3.67 “Site Plan”** means a detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in this code.
- 6.3.68 “Street”** means a dedicated public way which affords traffic circulation and a principal means of access to abutting properties.
- 6.3.69 “Street, Line”** means a public way intended for low volume of traffic which provides access to major streets.
- 6.3.70 “Street, Local”** means a public way intended for low volume of traffic which provides access to major streets.
- 6.3.71 “Street, Major”** means a public way, arterial or collector streets, used primarily for carrying a large volume of traffic.
- 6.3.72 “Structural Alterations”** means any change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls and embankment.
- 6.3.73 “Structure”** means anything, built, constructed or erected, the use of which requires permanent location on the ground including advertising signs and billboards.
- 6.3.74 “Subdivider”** means any person, group, corporation, entity or agency dividing or proposing to divide land so as to create a subdivision.
- 6.3.75 “Subdivision”** means the division of a tract or parcel of land into lots for the purpose of sale or of building development.
- 6.3.76 “Variance”** means the relaxation of the terms of the zoning code in relationship to building height, size of the front, rear and side yards, where the literal enforcement of this code would create an undue hardship, but it is not contrary to the purposes of the Argusville Comprehensive Plan and this code. The variance shall not be contrary to the public interest.
- 6.3.77 “Yard”** means an open space on the zoning lot which is unoccupied or unobstructed by any portion of a structure from the ground upward.

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

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

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

## **7. SUBDIVISION REGULATIONS**

### **7.1 Intent**

- 7.1.1** To insure the orderly development of the city and its one mile planning area.
- 7.1.2** To provide for proper arrangement of streets in relation to other existing and planned streets.
- 7.1.3** To provide for adequate and convenient open spaces for traffic, utilities, fire fighting, recreation, light and air.
- 7.1.4** To facilitate adequate provisions for access, placement of water and sewer systems, schools, and public open spaces.
- 7.1.5** To avoid development of unsuitable areas because of soil, drainage and other physical limitations
- 7.1.6** To facilitate subdivision of larger parcels into smaller parcels and lots.
- 7.1.7** To implement the Comprehensive Plan of the city.

### **7.2 Preliminary Plat**

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

#### **7.2.1 Preliminary Plat Content**

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

- (1)** The preliminary plat drawn at a scale of not smaller than one inch representing one hundred feet (1" = 100').
- (2)** Name and location of the subdivision.
- (3)** Date, graphic scale and north point.
- (4)** Boundary line of the proposed subdivision indicated by a solid heavy line, accurately drawn to scale and showing distances and bearings.

- (5) Total acreage within the subdivision.
- (6) Location, right-of-way width and names of any existing or proposed streets including type and width of surfacing or public ways, easement, railroad, utility right-of-way, parks and other public open spaces, permanent buildings or structure, corporate boundaries and section lines within or adjacent to the subdivision.
- (7) Location of existing property lines, buildings, drives, streams, watercourses, wooded areas and drainage ways.
- (8) Existing water mains, storm sewers, sanitary sewers, culverts, bridges and other utility structures within the tracts, indicating pipe size, grades and location as obtained from public records.
- (9) Existing zoning of the proposed subdivision and the zoning of the adjacent tracts of land.
- (10) Boundary line of adjacent tracts of land or lots showing owner's name.
- (11) Contour at vertical intervals of not more than two (2) feet.
- (12) Location and dimension of any site to be reserved or dedicated for public uses including drainage ways, parks and open spaces.
- (13) Layout of the proposed streets, alleys, cross walks and easements, showing widths and street names.
- (14) Layout, number and dimensions of all lots and blocks.
- (15) Parcels of land intended to be dedicated or reserved for public use or set aside for the use of property owners within the subdivision.
- (16) Building setback lines, showing dimensions.

### **7.2.2 Preliminary Plat Submission Requirements**

- (1) The subdivider shall apply on appropriate forms provided by the City Auditor to the Planning Commission at least one week prior to its regularly scheduled meeting.
- (2) The subdivider shall submit two (2) prints of the preliminary plat to the City Auditor at the time the application is made. The plat shall comply with the provisions of this code.



- (3) The subdivider may submit any instrument whereby he/she proposes to regulate land use in the subdivision for protecting the proposed development.
- (4) The subdivider shall provide other data related to drainage, soil suitability, financing of improvement and other related information which the Planning Commission requests.

### **7.2.3 Development Plan**

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

- (1) Location of existing property lines, buildings, drives, streams, wooded areas and other significant natural features.
- (2) General layout of proposed streets and location of blocks for designated uses.
- (3) Location of open spaces and facilities for public uses.
- (4) Existing drainage pattern based on the available topographic information from the U.S. Geological Survey Maps and other similar information.
- (5) The development plan shall be drawn at a scale of one inch representing four hundred (400) feet.
- (6) The Planning Commission may require other information as a part of the development plan.

### **7.2.4 Review Process**

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

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

### **7.3 Final Plat**

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

#### **7.3.1 Final Plat Content**

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

- (1) Name of subdivision and date of tentative approval by the City Council.
- (2) Location by section, township and range, or other legal description.
- (3) Names of owners and surveyor or other professional person preparing the plat.
- (4) Plat map with scale of one inch representing one hundred (100) feet or less.
- (5) Date, graphic scale and north point.
- (6) Boundary line of subdivision based on an accurate traverse, showing distances and bearings.
- (7) Exact location, width and name of all streets within and adjoining the subdivision, and the exact location of all alleys and crosswalks.
- (8) True bearing and distances to the nearest established street lines or official monuments, which shall be accurately described on the plat.
- (9) City, township, county or section lines accurately tied to the boundary lines of the subdivision by bearing and distance.
- (10) Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
- (11) All easements for rights-of-way provided for public services and public utilities.
- (12) All lot numbers and lot lines, with accurate dimensions in feet and hundredths.
- (13) Accurate location of all monuments, which shall be of material size in accordance with the standards of the city and the state.

- (14) Accurate outlines and legal descriptions of any areas (not including streets, alleys or public utility easements) to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed covenant for common use of all property owners.
- (15) Building setback lines, accurately shown with dimensions.
- (16) Where required, detailed engineering drawings, cross-sections or profiles of streets, utility lines, catch basins or other installations of improvements as installed.
- (17) Certification by registered surveyor to the effect that the plat represents a survey made by him, and that the monuments shown thereon exist as located and that all dimensional and geodetic details are correct.
- (18) Notarized certification by the owners of the land of the adoption of the plat and the dedication of sewers, water distribution lines and other improvements and of streets and other public areas.

### **7.3.2 Final Plat Submission Requirements**

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

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

### **7.3.3 Review Process**

- (1) If the Planning Commission finds the final plat in conformance with the requirements stipulated for approval of the preliminary plat, it shall recommend to the City Council for approval after a public hearing.

- (2) For subdivisions outside of the city corporate limits, a print of the final plat shall be submitted to the Cass County Auditor. The approval of the County Commission is necessary for all plats outside the city.
- (3) The subdivider shall prepare an estimate of the cost of providing the required improvements based on the city design standards for street, curb, gutter, sidewalk, sanitary sewer, storm sewer and water lines.
- (4) If all conditions and requirements have been met, the Planning Commission shall recommend approval of the final plat to the City Council.

#### **7.4 Amendment of Comprehensive Plan**

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

#### **7.5 Filing of Subdivision Plat**

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

### **8. DESIGN STANDARDS**

#### **8.1 Conformance**

The subdivider shall prepare the preliminary and final plat in conformance with the standard set forth herein.

#### **8.2 Street Design**

**8.2.1** The arrangement, character, classification, extent, width, grade, and location of all streets shall be designed in relation to existing and planned streets, topographic conditions, existing natural features, public convenience and safety and the proposed uses of land served by such streets and to the most advantageous development of adjoining uses.

**8.2.2** Where it is not shown on the Comprehensive Plan, the arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing streets in surrounding areas or conform to a plan approved by the Planning Commission to meet a particular situation.

- 8.2.3** Where a subdivision abuts or contains an existing or proposed major street or highway, the Planning Commission may require service streets, reverse frontage lots with screen planting in a reservation strip along the rear property line, deep lots with rear service alleys abutting the primary street or highway, or such other treatment as may be necessary for adequate protection of residential properties and for separation of through and local traffic.
- 8.2.4** Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Commission may require a street approximately parallel to and on each side of the right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distances shall be determined with due regard for the requirements of approach grades and future grade separations.
- 8.2.5** Reserve strips in private ownership controlling access to streets are prohibited.
- 8.2.6** Street hogs with centerline offsets of less than one hundred fifty (150) feet shall be avoided.
- 8.2.7** A tangent at least one hundred (100) feet long shall be introduced between reverse curves on major streets.
- 8.2.8** When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than four hundred (400) feet for local and collector streets, and of such greater radii as the Planning Commission shall determine for special cases.
- 8.2.9** Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than eighty (80) degrees.
- 8.2.10** Curb Radii on all block corners shall be ten (10) feet and a five (5) foot radius shall be used at intersections of streets and alleys.
- 8.2.11** Street rights-of-way shall be not less than the following:
- (1) Major streets, eighty (80) feet.
  - (2) Local streets, sixty (60) feet.
  - (3) Cul-de-sac, one hundred (100) feet in diameter for a turnaround.
  - (4) Alleys, residential district, twenty (20) feet.
  - (5) Sidewalks, four (4) feet.

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

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

**8.2.14** General considerations for intersection design are that:

- (1) Intersections of more than two (2) streets at a point shall not be permitted.
- (2) Alleys shall be discouraged in residential districts but may be provided in commercial and industrial districts.

**8.2.15** Dead-end streets without a suitable turnaround are prohibited.

### **8.3 Block Design**

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

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

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

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

**8.3.4** Block intended for commercial and industrial use shall be specifically designated for such purposes with adequate space set aside for off-street parking and delivery facilities. The Planning Commission may require service drives or frontage roads along major streets for commerce and industry.

### **8.4 Lot Design**

**8.4.1** The shape, size and orientation of the lots shall be appropriate for the location of the subdivision. For residential low density a north-south lot orientation is encouraged. Residential lot dimension within the city corporate limits shall be:

- (1) Minimum width at building line, seventy-five (75) feet.
- (2) Minimum lot area, seven thousand five hundred (7,500) square feet.

**8.4.2** For non-residential lots, the provisions of appropriate zoning district stipulated in Sections 4.3.4 and 4.4.4 of this code shall apply.

**8.4.3** Residential lot dimensions within the extra territorial planning area in Agricultural District shall be subject to the provisions of Section 4.1.

**8.4.4** Residential lot dimensions within extra territorial planning area in Residential District shall be subject to the provisions of Section 4.2.4.

**8.4.5** Residential lots abutting major streets shall have extra depth of at least twenty (20) feet to allow for proper setbacks.

**8.4.6** All lots shall front a public street.

**8.4.7** Side lot lines shall be substantially at right angles.

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

**8.4.9** Lot lines shall follow the city corporate limits.

**8.4.10** Double frontage lots shall be avoided except where essential to provide separation of development from arterial streets.

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

## **8.5 Street Names**

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

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

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

## **8.6 Utility Easements**

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

**8.6.2** All lots shall be served by underground electric, cable television and telephone lines unless waived by the Planning Commission due to topographic conditions or excessive costs.

**8.6.3** All utility lines for electric power, cable television and telephone services carried overhead shall be placed in utility easement.

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

## **8.7 Grading and Drainage**

**8.7.1** When required, the subdivider shall provide a detailed grading and drainage plan showing the grades of streets and drainage improvements.

**8.7.2** The drainage shall not discharge into any sanitary sewer facility.

**8.7.3** The drainage facilities shall be located in street right-of-way or in drainage easements.

**8.7.4** The grading and drainage system shall be approved by the City Council.

**8.7.5** Grading Established in any subdivision shall not be changed without approval of the City Council.

## **8.8 Drainage Way Easement**

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

## **8.9 Tree Planting**



The planting of trees of an appropriate species and at appropriate locations may be required by the City Council.

#### **8.10 Street Lights**

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

### **9. REQUIRED IMPROVEMENTS**

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

#### **9.1 Completion Assurance**

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

#### **9.2 Survey Monuments**

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

#### **9.3 Public Water**

**9.3.1** Where appropriate, water mains shall be installed so as to provide individual service to each lot within the subdivision.

**9.3.2** Water mains shall extend to the boundary of the subdivision, except where in the opinion of the City Council, it is deemed impractical.

**9.3.3** A rural water supply shall comply with the requirements of Cass County and State of North Dakota.

#### **9.4 Sanitary Sewer**

**9.4.1** All subdivisions shall be provided with sanitary sewers to each lot.

**9.4.2** Sanitary sewer shall be extended to the boundary of the subdivision, except where in the opinion of the City Council it is deemed impractical.

#### **9.5 Storm Sewer**

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

#### **9.6 Grading and Surfacing**

The full width of all rights-of-way shall be graded in accordance with the City of Argusville street standards.

#### **9.7 Curbs, Gutters and Sidewalks**

Concrete curb and gutters, where appropriate, may be installed in all subdivisions in accordance with the city standards. Where the city requires construction of a sidewalk, it shall be in accordance with the design standards established by the City Council.

#### **9.8 Installation of Improvements**

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

### **10. ADMINISTRATION AND ENFORCEMENT**

#### **10.1 Organization**

To administer this code, the following bodies are hereby vested with authority to act in behalf of the city.

- (1) The Zoning Administrator
- (2) The Planning Commission

(3) The Zoning Board of Adjustment

(4) The City Council

## **10.2 Zoning Administrator**

The Zoning Administration is a duly appointed city official authorized by the City Council and is responsible to administer this code, to assist the Planning Commission, and the City Council on any matter related to planning for and development of the city and its one mile planning area.

### **10.2.1 Duties**

- (1) Issue all zoning certificates, permits and maintain record thereof.
- (2) Issue all building and repair permits.
- (3) Maintain zoning related records and zoning district map including records of all amendments, conditional uses and variances.
- (4) Receive, file and forward to the Planning Commission all applications for zoning amendments, site approvals and conditional uses.
- (5) Prepare and publish notices and notify adjoining property owners.
- (6) Notify, in writing, the property owner or uses upon finding violation of this code and cite the nature of violation clearly, require compliance and a report of the finding to the City Council.
- (7) Receive, file and forward to the Planning Commission all applications for preliminary and final plats and the supporting documents.
- (8) Receive, file and forward all requests for variances to the City Council, which may act as a Board of Adjustment.
- (9) Report all zoning and land subdivision violations to the City Council.

Administration/Enforcement

### **10.2.2 Interpretation of Regulations**

All questions of interpretation of this code shall be presented to the City Council, which acts as the Board of Adjustment.

### **10.2.3 Building Permit Applications**

Any person or persons intending to construct or reconstruct or reconstruct or relocate a building or make alteration, shall, before proceeding with the work, or commencing any

excavation in connection with it, shall obtain a permit from the Zoning Administrator. These provisions shall also apply to the mobile homes.

- (1) Each application for a building permit shall be accompanied by a legal description and a map showing the actual dimension of the lot to be built upon, the size, shape and location of the building for observing the yard requirements of this code.
- (2) The application shall specify the type of the building, structure, material of which it is composed, the part or portion of the lot to be occupied by the principal building and accessory buildings and the building cost.

#### **10.2.4 Building Permits**

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

#### **10.2.5 Fees**

The Zoning Administrator shall charge and collect a fee as follows:

The Zoning Administrator shall charge and collect a fee according to the resolution of fees and schedules established by the city. The applicant for a conditional use permit and amendment to the zoning ordinance, or building permit, shall be liable for and pay to the Zoning Administrator sufficient sums of money to pay for and cover all of the costs incurred by the city for the processing of such application, including, but not limited: publication costs; attorney's fees; mileage; copy expense, etc. No Permit shall be issued until all such costs as these described herein have been paid by the applicant, unless the Zoning Administrator has otherwise provided by resolution for a particular case.

Replacement of roofs, siding, windows do not require a building permit.

Administration/Enforcement

#### **10.2.6 Certificate of Occupancy or Used**

The Zoning Administrator shall issue a certificate of occupancy upon inspection of the completed building, including placement of mobile homes and manufactured homes, an assurance that all provisions and conditions set forth under this code are met. In the event the Zoning Administrator finds violations and deviations from the terms and condition of this code, he/she shall make a report and recommendation for action to the City Council.

### **10.2.7 Conditional use and Site Approval Permits**

The Zoning Administrator shall issue a conditional use or site approval permit upon approval of the application by the City Council subject to the provisions of Section 12.

### **10.2.8 Variances**

The Zoning Administrator shall issue a permit if the City Council approves the variance. The terms of the variance or special use shall be stipulated in the permit, subject to the provisions of section 12.

### **10.2.9 The Final Plat**

The Zoning Administrator shall sign the final plat, if the City Council has approved the final plat subject to the provisions of section 7, 8, and 9 of this code.

## **10.3 Planning Commission**

The Planning Commission shall consist of five members: two member of the City Council, one rural member residing in the one mile extra territorial planning area, and three citizens appointed by the City Council.

### **10.3.1 Duties**

- (1) To hear and act on all applications for amendments to zoning districts and take action for approval, denial or approval with modification.
- (2) To hear and act on all applications for conditional uses and site approvals in the manner prescribed in this code and make recommendations to the City Council.
- (3) The action of the Planning Commission is advisory to the City Council and all final decisions rest with the City Council.
- (4) The Planning Commission may serve as the building official and serve at the discretion of the City Council.

### **10.3.2 Notice of Hearings**

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

amendments and conditional use permits shall be available for public inspection by the City Auditor.

### **10.3.3 Meetings**

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

## **10.4 Board of Adjustment**

The Zoning Board of Adjustment shall consist of five members appointed by the City Council. In the absence of a Board of Adjustment, the City Council shall act as the Zoning Board of Adjustment.

### **10.4.1 Duties**

Hear and decide variance form the terms of this code that shall not be contrary to the public interest.

### **10.4.2 Notice of Hearing**

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

## **10.5 City Council**

The City Council maintains the authority for review, approval, modification and denial of recommendations of the Zoning Administrator and the Planning Commission.

### **10.5.1 Duties**

- (1) The City Council is responsible for approval, modification or denial of amendments to the text of this code.
- (2) The City Council is responsible for approval, modification or denial of amendments to change the zoning district(s) boundaries.
- (3) The City Council is responsible for granting conditional use permits.

- (4) The City Council shall, in absence of a Board of Adjustment, act as the Zoning Board of Adjustment.

#### **10.5.2 Notice of Hearing**

The City Council may hold hearing(s) as required by the city general ordinances, this code and laws of the State of North Dakota.

### **11. PROCEDURES FOR AMENDMENTS, CONDITIONAL USES, VARIANCES AND PLATS OF SUBDIVISION**

#### **11.1 Zoning District Amendments**

##### **11.1.1 Public Hearing Notice**

The Planning Commission shall hold a public hearing, a notice of which shall be published at least once a week for two weeks prior to the hearing in the official newspaper of the county. The notice of hearing shall include: (1) the time and place of hearing; (2) description of the property by street address for platted lands and clearly identifiable location for the unplatted lands; (3) the proposed use, requested zoning district change; (4) time and place for public inspection of the documents submitted by the applicant before the hearing; and (5) notification to all property owners within 150 feet of the property in question.

##### **11.1.2 Public Hearings**

- (1) The Planning Commission at the hearing shall listen to all persons who may speak in support of or in opposition to the proposal. Upon the completion of its review, the Planning Commission shall make recommendation to the City Council. The Planning Commission may require additional information before it completes its findings and making its recommendations.
- (2) The City Council may hold a public hearing on the proposed amendment within 30 days of the receipt of the recommendations from the Planning Commission. Notice of the hearing shall be published in the official city newspaper prior to the date established for the hearing.

##### **11.1.3 Data Submission Requirements**

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

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

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

#### **11.1.4 Deliberation and Decision**

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

### **11.2 Conditional Use Permits**

#### **11.2.1 Purpose**

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

#### **11.2.2 Public Hearing Notice**

Shall be the same as the provisions set forth for public hearing notice for zoning district amendment in Section 11.1.1.

#### **11.2.3 Public Hearings**

Shall be the same as the provision set forth for public hearing for zoning district amendment in Section 11.1.2.

#### **11.2.4 Data Submission Requirements**

Shall be the same as the provisions set forth for data submission requirements for zoning district amendment in Section 11.1.3.

#### **11.2.5 Deliberation and Decision**

Shall be the same as the provisions set forth for deliberation and decision for zoning district amendment in Section 11.1.4.

#### **11.2.6 Standards**



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

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

#### **11.2.7 Conditions and Guarantees**

- (1) Prior to the decision on any conditional use, the Planning Commission may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the city and to secure compliance with the standards and requirements specified in Section 11.2.6.
- (2) No alteration of a conditional use shall be permitted unless approved by the City Council.

### **11.3 Variances**

Variance from the dimensional standards of this code may be granted provided that the applicant established proof of practical difficulty or undue hardship.

#### **11.3.1 Public Hearing Notice**

The Zoning Board of Adjustment shall hold a public hearing, a notice of which shall be published at least one week prior to the hearing in the official newspaper of the county. The notice of hearing shall include: (1) the time and place of hearing; (2) description of the

property by street address for platted lands and clearly identifiable location for the unplatted lands; (3) the proposed use and requested zoning district change; (4) time and place for public inspection of the documents before the hearing.

### **11.3.2 Public Hearings**

The Zoning Board of Adjustment at the Hearing shall listen to all persons who may speak in support of or in opposition to the proposal. Upon the completion of its review, it shall approve, deny or modify the proposal. The Zoning Board of Adjustment may require additional information before it completes its findings and decision.

### **11.3.3 Data Submission Requirements**

Petitions for variances shall be submitted with the following information.

- (1) Legal description of the property.
- (2) A map showing the existing land uses and zoning district classification of the area.
- (3) The reason for the variance request.
- (4) The type of variance requested and an explanation of whether the hardship is unique to the applicant's property.
- (5) Any other information that the Zoning Board of Adjustment deems necessary.
- (6) A fee of \$30.00 to be paid in accordance with the schedule established by the City Council.

### **11.3.4 Deliberation and Decision**

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

### **11.3.5 Standards**

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

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

- (2) That literal interpretation of this code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.
- (3) That the special conditions and circumstances have not resulted from actions of the applicant.
- (4) That granting the variance requested will not confer upon the applicant any special privileges that are denied by this code to other premises.

**11.3.6 Justification**

- (1) That the reasons set forth in the application justify the granting of the variance.
- (2) The variance is the minimum, which would make possible a reasonable use of the premises.
- (3) That the granting of variance will be in harmony with the general purpose of this code and will not be injurious to the surrounding premises, neighborhood or the city and will not be contrary to the comprehensive plan and the purposes of this code.
- (4) That there is practical difficulty or unnecessary hardship in use of the premises if the strict application of the regulations were to be carried out.

**11.4 Plat Approval**

The procedure for approval of the preliminary and final plats shall be the same as the zoning amendment procedure under Section 11.1.

**12. CITIZEN PROTEST**

If a protest to amendments, conditional use permits and subdivision plat is signed by owners of 20% or more of the area of the lots included in such proposed zoning change, or of the area adjacent, extending 150 feet, excluding street right-of-way, 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.

**13. VIOLATIONS AND PENALTIES**

Anyone who violates the provisions of this code or fails to comply with any of its requirements, upon conviction, shall be punished by a fine of no more than \$200 per day or imprisonment in the Cass County jail for not more than 90 days. Each day that a violation continues shall constitute a separate offense.

**14. ENACTMENT**

In order that the land within the City of Argusville and its one-mile extra territorial planning and zoning area be properly guided in accordance with the requirements set forth herein, this Development Code is hereby adopted.

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Mayor  
City of Argusville

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Date of Adoption

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City Auditor  
City of Argusville

## Permit Fee Schedule

### **New Construction:**

#### **Value of Work**

Under \$500

\$501 to \$20,000

Over \$20,000

New water & sewer hook-up to City line

Water Meter Deposit

City Assessor Fee

#### **Other Permits:**

Application of Conditional Use Permit

#### **Fee**

No fee

\$50.00

\$40 + \$3/each additional \$1,000  
value over \$20,000

\$200

\$100

\$135

\$100

Application for Zoning Amendment	\$100
Application for Variance	\$100

The applicant for any permit, zoning amendment or variance shall be liable for and pay to the Zoning Administrator sufficient sums of money to cover all costs incurred by the City for the processing of such application. These include, but are not limited to: publication costs, attorney fees, mileage, copy expense, etc. **No permit shall be issued until the applicant has paid all such costs.**

Cheri Wetzel, Zoning Administrator  
201 County Road 81 North  
Argusville, ND 58005  
(701)484-5022