

**City of Horace**

**LAND USE ORDINANCE**

**HORACE, NORTH DAKOTA**

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**Second Draft**  
**September, 15, 2007**

**LAND USE ORDINANCE**  
**Horace, North Dakota**

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**17.1 INTRODUCTION**

**17.1.1 Title**

This chapter shall be known and cited as the “Horace Land Use Ordinance” for the City of Horace, North Dakota.

**17.1.2 Authority**

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

**17.1.3 Purpose**

These regulations are adopted to promote the health, safety, morals, and general welfare of the people of the City of Horace, North Dakota

**17.1.4 Intent**

These regulations are adopted to implement the plans and policies of the City of Horace. More particularly these regulations are designed to accomplish the following:

- (1) To promote orderly development of Horace and to prevent conflict among land uses and structures and create a harmonious visual environment.
- (2) To secure safety from fire, panic, noxious fumes, and other dangers.
- (3) To facilitate development of water, sewerage, transportation and other customary municipal services most cost effectively.
- (4) To regulate the use and division of land within the city and its extra-territorial jurisdiction, as authorized by North Dakota laws.
- (5) To regulate the proper arrangement of streets, alleys and roads for convenient and efficient access to the adjoining properties.
- (6) To protect the value of land and buildings and maintain harmony and consistency among land uses.
- (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 the City of Horace ordinances.

**17.1.5 Jurisdiction**

These regulations shall apply to all lands within the corporate limits of the City of Horace, North Dakota and its extra territorial planning area authorized by the North Dakota Laws.

#### **17.1.6 Interpretation**

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

#### **17.1.7 Severability**

If any part of these regulations is found invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected.

#### **17.1.8 Exceptions**

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

#### **17.1.9 Repeal**

The existing Land Use Ordinance is hereby repealed. Other ordinances or parts of ordinances of the City of Horace inconsistent or in conflict with these regulations, to the extent of inconsistency or conflict, are hereby repealed.

#### **17.1.10 Effective Date**

This ordinance shall be effective upon adoption by the City Council of the City of Horace, as provided by the North Dakota Century Code.

### **17.2 RULES AND DEFINITIONS**

#### **17.2.1 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 ordinance.

#### **17.2.2 Word Use**

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

- (1) Words used in one tense (past, present or future) shall include other tenses.
- (2) Words used in singular shall include the plural and the plural the singular.
- (3) Shall is a mandatory word and not discretionary.
- (4) May is a permissive word.
- (5) The word “lot” shall also mean “parcel”, “piece” and “plat”.
- (6) The word “building” includes all structures and structure includes buildings.

### 17.2.3 Definitions

- (1) **“Access”** A way of approaching or exiting a property. Access also includes ingress, the right to enter and egress, the right to leave
- (2) **“Accessory Building and Uses”** A subordinate building, structure or portion of the principal structure the use of which is clearly incidental to and serves exclusively the principal building or principal use and shall be located on the same zoning lot. A detached garage is an accessory building.
- (3) **“Addition”** Any construction which increases the size of a building. It also means a plat of subdivision in numerical sequence.
- (4) **“Agriculture”** The process of producing food and fiber customary to the family farming operation with a minimum of 40 acres in area, excluding commercial dairies, feed lots, processing and manufacturing of the farm-based products.
- (5) **“Alley”** A minor street providing access to the back or side of two or more parcels or lots.
- (6) **“Animal Hospital or Kennel”** A building or premises set up for treatment and boarding of domestic animals including veterinary facilities.
- (7) **“Apartment”** A suite or room in a multiple dwelling building designed to be occupied by a family, a person or group of persons.
- (8) **“Arterial, Major”** Roadways designed to accommodate long trips and connect various neighborhoods. Examples of arterial roadways are Cass County Highway 17, Cass County Highways 6 and 14, 64th Ave South, 76th Ave. South or other roadways placed at the section lines in north-south or east-west directions.
- (9) **“Arterial, Minor”** Roadways designed to accommodate intermediate trips and distribute traffic to collector/connector streets to serve individual

properties including, houses, apartments and businesses. Minor arterials, where possible, will be located at one half (1/2) mile intervals between major arterials in a north-south or east-west direction.

(10) **“Automobile Salvage Yard”** Any place where two or more motor vehicles, not in running condition, or bearing current North Dakota License Plates are stored in the open or land for the purpose of selling parts or just storage.

(11) **“Basement”** A story, partly underground with more than one-half of its height below grade.

(12) **“Base Setback Area”** The land lying between the edge of the existing street right-of-way and the base line of a building.

(13) **“Billboard, or Sign”** A sign which advertises products, services, announcements offered on or off the premises.

(14) **“Building”** Any structure designed or intended for shelter, housing, business, office, and accommodation of persons, animals, chattels or property.

(15) **“Building Area”** That portion of the zoning lot that can be occupied by the principal and accessory uses.

(16) **“Building Height”** Vertical distance from the grade to the highest point of the roof.

(17) **“Building Line”** 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 ordinance the building line is the same as setback line. Roof overhangs, basement window wells and steps leading to a five foot or less wide landing area by the front door, back door or side are permitted within the setback areas.

(18) **“Building, Principal”** A building, the main use of which is single family and multi-family dwellings, offices, shops, stores and other uses permitted in the appropriate zoning district.

(19) **“Channel”** A natural or man-made water course for conducting the flow of water.

(20) **“Channeling”** The act of interconnecting two permanent or intermittent bodies of water including ditches and drains.

(21) **“Car Wash”** Any facility used for washing of motorized vehicles in an enclosed structure.

(22) **“City Council”** The governing body of the City of Horace, North Dakota.



(23) **“Collector Street”** Roadways which are designed to collect traffic from local streets and distributing it to and from major or minor arterial streets or highways.

(24) **“Connector Street”** Roadways which are designed to connect local streets to collector streets and arterial streets.

(25) **“Club or Lodge”** A structure designed for a group of persons which is a nonprofit association of persons for the purpose of gatherings and entertaining members including consumption of food and beverages.

(26) **“Comprehensive Plan” or “Horace 2028 Comprehensive Plan”** A guide for management of the land and water resources for growth and development of the City of Horace.

(27) **“Conditional Use”** A use 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, may be consistent with the purpose and intent of these regulations. A conditional use is permitted in a district specifically allowing 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 ordinances including these regulations.

(28) **“Condominium”** The ownership of a single-family unit in a multiunit structure or building with more than one such unit where the land or other common areas and facilities are owned jointly.

(29) **“Conforming Building or Structure”** A building or structure which complies with all requirements of this ordinance and other regulations adopted by the City of Horace.

(30) **“Conversion”** Any modification or change to an existing structure whether residential, commercial or industrial.

(31) **“Daycare Center:”** Any facility including single-family houses where children or adults, excluding member of the family are watched or cared for. This definition shall not include hospitals, nursing homes, Sunday schools or convalescent homes or fraternal homes.

(32) **“Density”** The quotient of the total number of dwelling units divided by the site area.

(33) **“Developer”** The owner, or agent of land owner involved in land subdivision or development for a specific or aggregate of use(s).

- (34) **“Development”** 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 alternations to buildings or structures, ditching, lagooning, dredging, filling, grading, paving, excavating and drilling operations.
- (35) **“Development Plan”** A document including maps and data for physical development of an area as may be required by this ordinance.
- (36) **“Ditching”** The process of excavation for the purpose of surface water drainage and removal.
- (37) **“District, Zoning”** A section or sections of Horace for which regulations governing the use of land, building, building heights, size of yards, lot area, lot width and the uses of land and buildings are set forth.
- (38) **“Drain”** The surface ditch designed and maintained by a unit of government in Cass County, North Dakota.
- (39) **“Dwelling”** Any building or portion thereof, used exclusively for human habitation including single family and multiple family units but not including hotels or motels, or vehicles designed for camping and other temporary occupancy such as recreational purposes.
- (40) **“Dwelling, Multiple Family”** A single building or portion thereof, containing two (2) or more dwelling units which share common entry and hallway(s).
- (41) **“Dwelling, Single-Family Attached”** A building containing two or more dwelling units with separate entrances and identifiable yard areas.
- (42) **“Dwelling, Single Family Detached”** A separate building containing one dwelling unit only.
- (43) **“Easement”** A right to the use of land for a specific purpose, such as placing utility line, drainage way, or access to another property, such right being held by someone other than the owner who holds the title to the land.
- (44) **“Encroachment”** Any fill, building, structure or use including accessory uses projecting into the required yard areas of public or private property.
- (45) **“Establishment”** A place of business for processing, production, assembly, sales, service of goods and materials.

- (46) **“Extra-territorial Area”** areas surrounding the City of Horace within a distance of the city corporate limits in all directions, where the city has zoning and platting jurisdiction under the provisions of the North Dakota Century Code.
- (47) **“Feed lot”** An enclosed parcel of land which contains a commercial operation for feeding or raising of fifty (50) or more animals which is operated as a separate activity and not incidental to farming of the premises.
- (48) **“Final Plat”** The map, plan, or record of a subdivision and any accompanying material prepared in conformance with this ordinance.
- (49) **“Flood”** A temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the channel.
- (50) **“Flood Fringe”** That portion of the flood plain outside the flood way, which is covered by flood waters during a regional flood.
- (51) **“Flood Plain”** The land adjacent to a body of water which has been or may be covered by flood water, it includes flood way and flood fringe.
- (52) **“Flood Proofing”** A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, in order to reduce or eliminate flood damage to properties, structures and their contents.
- (53) **“Flood Protection Elevation”** A point two and one half (2 1/2) feet of freeboard above the water surface profile of the regional flood as recommended by the city engineer.
- (54) **“Floodway”** The channel of a stream and those parts of the flood plain adjoining the channel that carry and discharge the flood waters.
- (55) **“Floor Area”** The floor area of a building or structure including the gross horizontal areas of several floors measured from the interior faces of interior walls. Basement floor area is counted in the floor area calculation provided that at least half of the basement height is above the finished lot grade.
- (56) **“Frontage”** The front part of a lot abutting a public street right-of-way, or road or highway.
- (57) **“Grade, Building”** The land elevation at the horizontal intersection of the ground and the building.
- (58) **“Home Occupation”** Any occupation which: (a) is carried on in dwelling unit by members of the family; (b) is clearly secondary to the use of residential dwelling units; (c) does not create excessive noise, traffic or conflict with adjoining uses; (d) is conducted within the dwelling units and/or in an accessory building; (e) does not occupy more than twenty-five percent (25%) of the total

dwelling unit; and (f) shall not require internal or external alterations, or involve construction not customary in a dwelling unit.

(59) **“Hotel or Motel”** A building in which lodging accommodations, with or without meals, are provided for compensation.

(60) **“Improvements”** Street grading, surfacing, installations of sidewalks, curb, gutter, water, sanitary and storm sewer systems, culverts, bridges, trees, street lights as may be required by the City of Horace.

(61) **“Industrial Park”** A special or exclusive type of area designed and equipped to accommodate a group of compatible industries in an attractive setting. All industrial uses shall be based on detailed site plan as provided in Sections 17.5.12 and 17.5.13 of this ordinance.

(62) **“Junk or Salvage Yard”** 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.

(63) **“Kennel, Animal”** Any premises where dogs, cats and other domesticated pets, but not including wild animals, are boarded, bred and maintained for compensation.

(64) **“Landscaping”** The improvement of a lot, parcel or tract of land with grass, shrubs or trees. Landscaping may include pedestrian walks, flowerbeds, and ornamental objects such as fountains, artworks or monuments to produce an aesthetically pleasing environment.

(65) **“Landscaping Plan”** A detailed drawing(s) of scale for placement of walks, flowers, trees, parking, shelters, seating and picnic areas.

(66) **“Lot”** A piece, parcel, or area of land established by survey, plat or deed that meets the yard requirements of this ordinance and fronts on a public street.

(67) **“Lot, Corner”** A lot abutting two (2) or more public streets at their intersection.

(68) **“Lot Coverage”** Building area, the total surface area of a lot which may be used for permitted uses, excluding the yard areas.

(69) **“Lot Depth”** The average horizontal distance between the front lot line and rear lot line.

(70) **“Lot Lines”** The property lines bounding the lot.

(71) **“Lot of Record”** A lot, which is a part of a subdivision or a parcel of land which has been recorded in the office of the Cass County Recorder’s Office.

(72) **“Lot Width”** The horizontal distance between the side lot lines of a lot, measured at the front building setback line.

(73) **“Lot, Zoning”** A single lot, parcel, or tract of land within a zoning district.

(74) **“Manufactured and Modular Homes”** Factory built dwelling units, transportable in one or more sections, with at least nine hundred (900) square feet of living space, which are designed as year-round dwelling units and shall be placed on a permanent foundation or basement. The manufactured dwelling units shall bear a label certifying that such units were built in compliance with the latest Manufactured Home Safety Construction and Safety Standards adopted by the U.S. Dept. of Housing and Urban Development for manufactured homes. The International Building Code shall apply to modular homes.

(75) **“Manufactured Home Park”** A parcel of land for which a detailed plan indicating the location of lots, blocks, streets, facilities and utilities, is prepared subject to the requirements of this ordinance to accommodate manufactured homes for rent or ownership.

(76) **“Manufacturing”** The assembling, processing and converting of raw, unfinished or finished materials, products or parts into an article of different or new character.

(77) **“Mobile Home”** Manufactured houses

(78) **“Nonconforming Building”** Any building or structure which does not conform to any or all of this ordinance but existed at the time of adoption of this ordinance.

(79) **“Nonconforming Lot”** A lot which does not conform to the lot size and regulations of the district in which it is located, but existed before adoption of this ordinance.

(80) **“Nonconforming Use”** Any principal use of land or building which does not conform with any or all parts of this ordinance but existed at the time of adoption of this ordinance.

(81) **“Non-residential Plat”** A plat whose intended use is other than residential such as commercial or industrial uses.

(82) **“Noxious Matter or Materials”** Material that may cause injury to living organisms including plants, animals and humans.

(83) **“Nuisance”** Anything that interferes with the use or enjoyment of public or private property, endangers personal health, safety or is offensive to the senses.

(84) **“Nursery”** An area or buildings used to raise trees, flowers, shrubs or plants for sale.

(85) **“Nursing, Elderly Care Facility”** A residential facility for the aged or infirm in which unrelated persons are accommodated for compensation.

(86) **“Parking Lot”** An off-street area designated for parking of motor vehicles accessible from a public street or alley where each parking space shall not be less than nine (9) feet by twenty (20) feet for automobiles and larger spaces for trucks.

(87) **“Permanent Foundation”** An extension of the outer walls of a building or structure made of solid materials such as concrete or treated wood and extended below the ground surface through the frost zone, or other depths as required by the city. Pilings may be accepted as permanent foundation.

(88) **“Permitted Uses”** 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 ordinance are met.

(89) **“Person”** Any individual, firm, corporation, partnership or legal entity.

(90) **“Planned Unit Development”** A plan for grouping of buildings and structures on a site of five (5) or more acres in single ownership which is based on a detailed layout plan and recorded in the Office of Cass County Recorder’s Office upon approval by the City of Horace.

(91) **“Planning Commission”** A citizen group appointed by the City Council under the authority of North Dakota Laws, as an advisory group only.

(92) **“Plat”** A map of a subdivision of land including lot splits and replats prepared according to the provisions of this ordinance.

(93) **“Preliminary Plat”** A map of a subdivision layout and any accompanying material prepared in accordance with the requirements of this ordinance.

(94) **“Public Water and Sewer”** Water and sewer system operated and managed by the City of Horace, and water system operated and managed by the Cass County Rural Water District.

(95) **“Public Way”** Any dedicated and recorded right-of-way including alleys, bikeways, sidewalks, streets, roads or highways.

(96) **“Regional Flood”** A flood determined by the State and Federal Emergency Management Agency and is representative of large floods known to have occurred in Cass County, North Dakota.

(97) **“Replat”** A change in an approved or recorded plat requiring changes in street layout, lot lines, or blocks.

(98) **“Riding Stable”** A building or structure used to accommodate horses and similar domestic animals, but not the predatory and wild animals, not permitted by the North Dakota laws or administrative rules.

(99) **“Right-of-Way”** 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 public water systems.

(100) **“Road Side Stand”** A temporary structure for the seasonal display and sale of agricultural products to be removed when not in use.

(101) **“Sand and Gravel Operation”** The removal of rocks, gravel, sand, top soil or other natural material from the earth by excavating, stripping or other processes.

(102) **“Sanitary Landfill”** A type of land disposal operation for solid waste, including household and commercial wastes, under the provisions of North Dakota Century Code and Administration of rules of the North Dakota Department of Health. Inert landfills are not sanitary land fills, but also come under the jurisdiction of the North Dakota Department of Health.

(103) **“Service Station”** Any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to the motorist.

(104) **“Setback”** The minimum horizontal distance between the building line and the related front, side, or rear property line. Roof overhangs, basement window wells and steps leading to a five (5) foot or less wide landing area by the front door, back door, and side door are permitted within the setback area. Uncovered decks no more than five (5) feet wide are permitted in the front yard within the setback areas. Uncovered decks of no more than three (3) feet are permitted in the side yard within the setback area. If the setback area is larger than the requirements stipulated in these regulations, the width of uncovered deck may be increased up to the difference between the actual setback and the minimum required setback. There shall be no restriction for construction uncovered decks in the rear yards.

(105) **“Sign”** 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.

**(106) “Site Plan”** A detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in this ordinance as required by Section 17.6.10 of these regulations.

**(107) “Solid Waste”** Garbage, refuse and other discardable or salvageable solid materials including commercial and industrial waste.

**(108) “Street”** A dedicated public way which affords traffic circulation and is a principal of access to abutting properties.

**(109) “Street, Line”** The outer boundary of a public way.

**(110) “Street, Local”** A public way intended for a low volume of traffic which provides access to individual properties.

**(111) “Street, Major”** A public way, arterial or collector streets, used for carrying a large volume of traffic, as defined by American Association of State Highway and Transportation Officials. (AASHTO)

**(112) “Structural Alterations”** Any change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls and embankment.

**(113) “Structure”** Anything, built, constructed above or below ground, the use of which requires permanent location on or below the ground, including advertising signs, billboards, buildings, power lines and transmission lines, tunnels and pipelines.

**(114) “Subdivider”** Any person, group, corporation, entity or agency dividing or proposing to divide land so as to create a subdivision.

**(115) “Subdivision”** The division of a tract or parcel of land into lots for the purpose of sale or of building development including lot splits and replats.

**(116) Telecommunication Facilities”** Includes all devices, equipment, machinery, structures or supporting elements necessary to produce electromagnetic radiation and operating as a unit to produce a signal or message. The structures may be self supporting, guyed, mounted on poles, other structures, light posts, power poles or buildings. For the purpose of this ordinance the amateur radio towers are distinguished from the commercial and public broadcasting, radio/TV transmission tower and cellular phone towers.

**(117) “Traffic Lane”** A strip of roadway intended to accommodate a single line of moving vehicles.



(118) **“Turning lane”** A traffic lane for connecting one arterial street to another arterial street, collector or connector or local street.

(119) **“Variance”** The relaxation of the dimensional terms of the zoning ordinance in relationship to building height, size of the front, rear and side yards, where the literal enforcement of this ordinance would create an undue hardship, but it is not contrary to the purposes of the Horace 2028 Comprehensive Plan and this Ordinance. The variance shall not be contrary to the public interest. It shall not be interpreted for relaxation of the uses instead of rezoning.

(120) **“Vision Setback Area”** An unoccupied triangular space at the intersection of streets. The vision setback area for local connector streets is thirty (30) feet and for arterial or collector streets is fifty (50) feet.

(121) **“Yard”** An open space on a lot which is unoccupied or unobstructed by any portion of a structure from the ground upward.

(122) **“Yard, Front”** 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.

(123) **“Yard, Rear”** 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.

(124) **“Yard, Side”** A yard between the front and rear yards, as the least distance between the side of the principal building and the side lot line.

(125) **“Zone”** An area of land within which certain uses of land and buildings are permitted and certain other uses are prohibited. Each zone, as provided for in this ordinance, requires certain lot area, building height limit, front, side and rear yards.

(126) **“Zoning”** The process of permitting certain uses in one area while prohibiting other uses.

## **17.3 GENERAL PROVISIONS**

### **17.3.1 Comprehensive Plan, Horace 2028 Comprehensive Plan**

This ordinance is administered and enforced to implement the Horace 2028 Comprehensive Plan, 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:

(1) To preserve and enhance the taxable value of land and buildings, and to avoid land uses which pose negative impacts on one another.

- (2) To encourage the most appropriate use of land in the city.
- (3) To regulate and restrict the location and intensity of use of buildings and lands.
- (4) To separate and control unavoidable nuisance producing uses to minimize the adverse impacts on the surrounding areas or uses.
- (5) To facilitate traffic movement and promote development of compatible uses.
- (6) To guide placement and types of streets, water, sanitary and storm sewers.
- (7) To guide placement and development of public facilities, parks and other municipal facilities such as library, community center, indoor and outdoor recreational facilities.

### **17.3.2 Non-conforming Uses**

The lawful use of a building or premises existing at the date of adoption of this ordinance 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 ordinance. 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 ordinance unless there is an undue hardship and is approved by the City Council.

### **17.3.3 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 the 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.

### **17.3.4 Conditional Uses**

Where a use is classified as a conditional use under this ordinance and exists at the date of adoption of this ordinance, it shall be considered a permitted use. Where a use is not allowed as a conditional use or permitted use, under this ordinance, and exists at the date of adoption of this ordinance, it shall be considered non-conforming and shall be subject to the non-conforming buildings and use provisions under Section 17.11.2.

### **17.3.5 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.

### **17.3.6 Residential Development**

No single-family 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. Multi-family residential uses may be permitted on a single zoning lot, provided that all requirements of this ordinance for area and setbacks are met.

### **17.3.7 Public Water and Sewer System**

To protect the public health, to control water pollution and to reduce nuisance and odor, all new development in R-1 to R-5, commercial and industrial uses within the City of Horace shall be connected to the city water and sewer system. Construction and use of septic tanks shall not be permitted within the city corporate limits of the City of Horace unless the lots are at least one acre in size and pass the required percolation test.

### **17.3.8 Accessory Uses**

- (1) Accessory uses and structures are subject to the same regulations as the principal uses and structures in each zoning district.
- (2) Accessory structures shall be constructed in conjunction with or after the principal building.
- (3) No accessory structure other than fence or wall shall be located in the front or street side setback.
- (4) No accessory structure shall be located within any recorded public or utility easement.
- (5) No accessory structure shall be larger than 840 square feet in R-1, R-2, R-3 and 1,500 square feet or 3% of the gross lot area for one acre lots or larger.
- (6) No accessory structure shall be taller than the principal structure. In R-1 to R-5 residential districts, the accessory structure shall not be higher than fifteen (15) feet from the ground to the eve.
- (7) All accessory structures shall have a setback from the rear or side property line equivalent to the height of the structure itself.

### **17.3.9 Building Characteristics**

All existing or new principal or accessory structures shall be in visual harmony with other structures in the area and ideals of the City of Horace. All mechanical equipment or structures shall be screened by hedges or fences from the public view. All structures shall be built, rebuilt and renovated in accordance with the requirements of the City Building Codes and ordinances that require protection and safety of the public, enhances the visual quality of the area and contribute to the property value and tax base in Horace.

## **17.4 ZONING DISTRICT BOUNDARIES AND MAP**

### **17.4.1 Zoning Districts**

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

- A        Agricultural District**
- S-R      Suburban Residence**
- R-E      Residential Estate**
- R-1      Single-Family Residential District**
- R-2      Single-Family Residential District**
- R-3      Medium Density Residential District**
- R-4      Intermediate Density Residential District**
- R-5      Multi-Family Residential District**
- C-1      Neighborhood Commercial District**
- C-2      Town Center Commercial District**
- C-3      General Commercial District**
- I-1      Light Industrial District**
- I-2      General Industrial District**
- PD      Planned Unit Development District**
- FP      Floodplain Management District**

### **17.4.2 Zoning District Map**

**(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 of Horace Code Administrator. The zoning district maps, together with all information shown thereon and all amendments thereto, shall be an integral part of this ordinance.

**(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 to the contrary.

**(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.

**(4) District Description for Unsubdivided Lands**

For unsubdivided property, zoning district boundaries may be determined by metes and bounds description or by a legal description.

**(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.

**(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.

**(7) Certification**

The official zoning map shall bear a certificate with the signatures of the Mayor, the Planning Commission Chairperson, the City Auditor and the date of adoption of the zoning map as an integral part of this ordinance.

**17.5 ZONING DISTRICT REGULATIONS**

**17.5.1 A Agricultural District**

**(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 extra territorial planning area. For the purposes of this code the Agricultural District is used as a holding district until the area is ready for development. Any land zoned other than A-Agricultural, it shall revert to Agricultural District, if it is not planned and committed for development after 2 years. This provision does not apply to platted residential areas or areas under Planned Unit Development.

**(2) Permitted Uses**

The following uses and conditional uses may be connected to private water and sewer.

- (a) All types of farming and ranching operations including dairying, but excluding feed lots, poultry, fish and fur farming.
- (b) Accessory farm buildings and structures.
- (c) Churches and cemeteries
- (d) Golf courses, parks and play fields.
- (e) Home occupations.
- (f) Public and private schools, public buildings and facilities.
- (g) Single Family Residential Units including manufactured homes and modular homes not exceeding one unit per 40 acres of land.
- (h) Construction and maintenance of drainage systems to manage the water run-off and water reservoirs.
- (i) General utility lines and pipe lines including substations for transformers, pumping stations and lift stations.

**(3) Conditional Uses**

The following uses shall be subject to the provisions of Section 17.11.2 and also Section 17.6 where appropriate.

- (a) Feed lots, poultry, fish and fur farming subject to provisions of Section 17.6.2.

- (b) High voltage transmission lines and accessory structures.
- (c) Manufacturing and processing of agricultural products produced in the area.
- (d) Mining of sand and gravel, subject to the provisions of Section 17.6.7.
- (e) Municipal and public water wells, treatment and storage facilities.
- (f) Communication facilities including radio, TV stations and towers and microwave and cellular phone towers and related communication facilities subject to the provisions of Section 17.6.1.
- (g) Sale and services of agricultural equipment and machinery.
- (h) Salvage and junk yards, subject to provisions of Section 17.6.4.
- (i) Sanitary landfills, subject to the provisions of Section 17.6.8.
- (j) Sewage lagoons and waste water treatment facilities.
- (k) Skeet, trap and rifle ranges not closer than one thousand (1,000) feet from residential areas.
- (l) Storage of farm related chemicals.
- (m) Veterinary clinics, animal hospitals and domestic animal kennels.

**(4) Lot Area and Lot Width**

- (a) For agricultural uses, the area shall not be less than forty (40) acres.
- (b) For non-farm residential uses, the lot area shall not be less than ten (10) acres with a maximum of four (4) lots per quarter sections of land.
- (c) For non-farm non-residential uses, the lot area shall not be less than five (5) acres.
- (d) The lot width for any use in agricultural district shall not be less than two hundred and fifty (250) feet.

**(5) Yard Requirements**

(a) The minimum front yard, measured from the front property line shall not be less than seventy-five (75) feet from all arterial and collector streets.

(b) The minimum rear yard, measured from the rear lot line shall not be less than fifty (50) feet.

(c) The minimum side yard, measured from the side lot line shall not be less than fifty (50) feet.

**(6) Building Height**

(a) The building height for residential buildings shall not exceed two and one half (2 1/2) stories or thirty five (35) feet.

(b) The building heights for manufacturing of agricultural products shall be determined by the City Council, based on accepted standards used in the area. The height of radio, TV, microwave and cellular phone towers shall be subject to the provisions of Section 17.6.1.

(c) The building height, excepting the radio and TV, microwave and cellular phone towers and church steeples and agricultural uses shall not exceed thirty-five (35) feet.

**(7) Parking Requirements**

Parking requirements shall be subject to the provisions of Section 17.6.5.

**(8) Sign Requirements**

Sign requirements shall be subject to the provisions of Section 17.6.9.

**17.5.2 S-R Suburban Residential District**

The following uses and conditional uses may be connected to public water and sewer systems where feasible.

**(1) Purpose**

The S-R 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.

**(2) Permitted Uses**

(a) Single-family detached residential uses with a minimum of 2,500 square feet of living space.



(b) Churches, schools and public facilities including parks, schools and golf courses.

(c) Accessory buildings and structures not to exceed 1,500 square feet.

(d) Home occupation.

**(3) Conditional Uses**

The following uses shall be subject to the provision of Section 17.11.2.

(a) Day care facilities.

(b) Municipal facilities such as libraries, water distribution systems, pumping stations and water wells.

(c) Horses and domestic animals, but not wild or prey animals. Boarding and maintenance of horses shall be limited to one animal per acre.

**(4) Lot Area, Lot Width and Coverage**

(a) The minimum lot area for single family units shall be three (3) acres.

(b) The minimum lot width shall not be less than two hundred fifty (250) feet.

**(5) Yard Requirements**

(a) The minimum front yard, measured from the front lot line, shall not be less than fifty (50) feet from local streets and seventy-five (75) feet from connector, collector and arterial streets.

(b) The minimum rear yard, measured from the rear lot line, shall not be less than fifty (50) feet.

(c) The minimum side yard, measured from the side lot line, shall not be less than fifty (50) feet on each side of a lot.

**(6) Building Height**

No building shall be more than two and one half (2 1/2) stories or thirty five (35) feet high, excepting church steeples.

**(7) Parking Requirements**

(a) There shall be a minimum of two (2) surfaced off-street parking spaces for each residential dwelling unit.

(b) Parking for the conditional uses and non-residential uses shall be subject to the provisions of Section 17.6.5.

(c) All driveways shorter than seventy-five (75) feet shall be constructed with the concrete or asphalt.

**(8) Sign Requirements**

(a) There shall be no more than one identification sign per residential dwelling structure not exceeding six (6) square feet in area.

(b) Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.

(c) Signs for non-residential uses shall be subject to the provisions of Section 17.6.9.

**17.5.3 R-E Residential Estate District**

The following uses may be connected to public water and sewer where feasible.

**(1) Purpose**

The R-E Residential Estate 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.

**(2) Permitted Uses**

(a) Accessory buildings and structures.

(b) Churches, schools and public facilities including libraries, parks, schools and golf courses.

(c) Home Occupation

(d) Single family detached residential uses with a minimum of 2,000 square feet of living space.

**(3) Conditional Uses**

The following uses shall be subject to the provision of Section 17.11.2.

- (a) Day care facilities.
- (b) Municipal public facilities including library, community center and water and service related facilities.

**(4) Lot Area, Lot Width and Coverage**

- (a) The minimum lot area for single family units shall be one acre.
- (b) The minimum lot width shall not be less than one hundred fifty (150) feet. Maximum lot coverage shall be thirty per cent (30%).

**(5) Yard Requirements**

- (a) The minimum front yard, measured from the front lot line, shall not be less than fifty (50) feet from local streets and seventy-five (75) feet from arterial and collector streets.
- (b) The minimum rear yard, measured from the rear lot line, shall not be less than fifty (50) feet.
- (c) The minimum side yard, measured from the side lot line, shall not be less than twenty-five (25) feet on each side of a lot.

**(6) Building Height**

No building shall be more than two and one half (2 1/2) stories or thirty-five (35) feet high, excepting church steeples.

**(7) Parking Requirements**

- (a) There shall be a minimum of two (2) surfaced off-street parking spaces for each residential dwelling unit.
- (b) Parking for the conditional uses and non-residential uses shall be subject to the provisions of Section 17.6.6.
- (c) All driveways shall be constructed in accordance with the requirements of the City of Horace Municipal Ordinances, of concrete or asphalt.

**(8) Sign Requirements**

- (a) There shall be no more than one identification sign per residential dwelling structure not exceeding six (6) 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.
- (b) Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.
- (c) Signs for non-residential uses shall be subject to the provisions of Section 17.6.9.

**17.5.4 R-1 Single Family Residential District**

**(1) Purpose**

The R-1 Residential District is primarily established to promote a suitable residential environment and to accommodate detached single family residential units uninterrupted by conflicting uses and incompatible activities.

**(2) Permitted Uses**

The following principal uses must be connected to public water and sewer system.

- (a) Single family detached residential uses with a minimum of 1,500 square feet of living space.
- (b) Churches, schools and public facilities including libraries, parks, schools and golf courses.
- (c) Home Occupation
- (d) Accessory buildings and structures are not to exceed 840 square feet provided that total area coverage shall not exceed forty percent (40%) of the lot.

**(3) Conditional Uses**

The following uses shall be subject to the provision of Section 17.11.2 and must be connected to a public water and sewer system.

- (a) Day care facilities.

(b) Municipal facilities including city and county offices and facilities.

**(4) Lot Area, Lot Width and Coverage**

(a) The minimum lot area for single family units shall be fifteen thousand (15,000) square feet.

(b) The minimum lot width shall not be less than one hundred (100) feet. Maximum lot coverage shall be forty per cent (40%).

**(5) Yard Requirements**

(a) The minimum front yard, measured from the front lot line, shall not be less than thirty (30) feet on local streets and seventy-five (75) feet on arterial streets.

(b) The minimum rear yard, measured from the rear lot line, shall not be less than fifty (50) feet. But it shall be seventy-five (75) feet if located on arterial or collector streets.

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

**(6) Building Height**

No building shall be more than two and one half (2 1/2) stories or thirty five (35) feet high, excepting church steeples.

**(7) Parking Requirements**

(a) There shall be a minimum of two (2) surfaced off-street parking spaces for each residential dwelling unit.

(b) Parking for the conditional uses and non-residential uses shall be subject to the provisions of Section 17.6.5.

(c) All driveways and parking areas shall be constructed in accordance with the requirements of the City of Horace of concrete or asphalt.

**(8) Sign Requirements**

- (a) There shall be no more than one identification sign per residential dwelling structure not exceeding six (6) 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.
- (b) Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.
- (c) Signs for non-residential uses shall be subject to the provisions of Section 17.6.9.

### **17.5.5 R-2 Single-Family Residential District**

#### **(1) Purpose**

The R-2 single-family residential district is primarily established to promote a suitable residential environment and to accommodate detached single-family residential units uninterrupted by conflicting uses and incompatible activities.

#### **(2) Permitted Uses**

The following principal uses must be connected to public water and sewer system.

- (a) Single-family detached residential uses with a minimum of one thousand five hundred (1,500) square feet of living space.
- (b) Churches, schools and public facilities including libraries, parks, schools and golf courses.
- (c) Home occupation.
- (d) Accessory buildings and structures not to exceed 840 square feet provided that the total area coverage shall not be more than 45%.

#### **(3) Conditional Uses**

The following uses shall be subject to the provision of Section 17.11.2 and must be connected to public water and sewer system.

- (a) Day care facilities.

(b) New manufactured homes or modular homes placed on permanent foundation or basement.

(c) Municipal facilities, including city and county offices and facilities.

**(4) Lot Area, Lot Width and Coverage**

(a) The minimum lot area for single family units shall be eleven thousand and five hundred (11,500) square feet.

(b) The minimum lot width shall not be less than seventy (70) feet. Maximum lot coverage shall be forty-five per cent (45%).

**(5) Yard Requirements**

(a) The minimum front yard, measured from the front lot line, shall not be less than thirty (30) feet from local streets and seventy-five (75) feet from arterial and collector streets.

(b) The minimum rear yard, measured from the rear lot line, shall not be less than fifty (50) feet. But it shall be seventy-five (75) feet if located on arterial and collector streets.

(c) The minimum side yard, measured from the side lot line, shall not be less than eight (8) feet on one side of a lot and twelve (12) feet on the other.

**(6) Building Height**

No building shall be more than two and one half (2 1/2) stories or thirty five (35) feet high, excepting church steeples.

**(7) Parking Requirements**

(a) There shall be a minimum of two (2) surfaced off-street parking spaces for each residential dwelling unit.

(b) Parking for the conditional uses and non-residential uses shall be subject to the provisions of Section 17.6.5.

(c) All driveways and parking areas shall be constructed of concrete and asphalt.

**(8) Sign Requirements**

(a) There shall be no more than one identification sign per residential dwelling structure not exceeding six (6) 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.

(b) Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.

(c) Signs for non-residential uses shall be subject to the provisions of Section 17.6.9.

**17.5.6 R-3 Medium Density Residential District**

**(1) Purpose**

The R-3 medium density residential district is primarily established to promote a suitable residential environment to accommodate single family and townhouse residential dwelling units on smaller lots.

**(2) Permitted Uses**

The following uses must be connected to public water and sewer system.

(a) Single family detached dwelling units.

(b) New manufactured homes and modular homes placed on a permanent foundation or basement. In addition, all housing units shall meet the following requirements: (a) the main entrance shall face the street; (b) the roof pitch shall not be less than four/twelve (4/12) ratio; (c) each unit shall have space for at least a two (2) stall attached garage; (d) modular homes and site built homes shall meet the requirements of International Building Code; (e) manufactured homes shall meet the latest HUD standards; (f) each unit shall have at least nine hundred (900) square feet of living space; and (g) each unit shall have appearance comparable to conventional site built homes in the vicinity.

(c) Two family dwelling units and townhouses.



- (d) Churches, schools and day care facilities.
- (e) Home Occupation.
- (f) Accessory buildings and structures shall not be more than eight hundred and forty (840) square feet provided that the total area coverage is not over 45%.
- (g) Parks, playgrounds and recreational open spaces.

**(3) Conditional Uses**

The following uses shall be subject to the provisions of Section 17.11.2 and must be connected to public water and sewer.

- (a) Bed and breakfast establishments.
- (b) Manufactured home parks, where public water and sewer are available, with the following requirements:
  - (i) A site plan showing location of streets, utilities, off-street parking, driveways walkways blocks, lots, playground and park area.
  - (ii) The manufactured housing park shall contain a minimum of five (5) acres of land. No unit more than ten (10) years old shall be placed in the park.
  - (iii) Each manufactured home shall be placed on a lot at least seventy (70) feet wide with a minimum lot area of nine thousand five hundred (9,500) square feet.
  - (iv) Each unit shall be placed on a permanent foundation or basement.
  - (v) Each unit shall have a minimum front yard setback of thirty (30) feet within the private park or from local public streets. It shall be seventy-five (75) feet from collector or arterial streets.
  - (vi) Each unit shall have a minimum side yard of eight (8) feet and a rear yard of thirty (30) feet except it shall be seventy-five (75) feet if located on collector or arterial streets.
  - (vii) The design and construction of the private streets within the park shall conform to the design standards of the City of Horace.
  - (viii) All units shall be served by underground utilities.

- (c) Hospitals, medical clinics, short or long term care homes.
- (d) Multi family dwelling units of three to four units per structure.
- (e) Public and private utilities and structures.

**(4) Lot Area, Lot Width and Coverage**

- (a) The minimum lot area for single family units shall be nine thousand five hundred (9,500) square feet.
- (b) For twin homes, the minimum lot area shall be five thousand (5,000) square feet per unit. For three-four residential units the lot area shall be five thousand (5,000) square feet per unit.
- (c) The minimum lot width for single-family detached units shall not be less than seventy (70) feet. For twin homes and 3-4 residential units the lot width shall be forty (40) feet per unit for one story structures and seventy (70) feet for two story structures. The area coverage shall not exceed 45%

**(5) Yard Requirements**

- (a) The minimum front yard, measured from the front lot line, shall not be less than thirty (30) feet from local streets and seventy-five (75) feet from arterial and collector streets.
- (b) The minimum rear yard, measured from the rear lot line, shall not be less than thirty (30) feet. But it shall be seventy-five (75) feet if the unit is placed on arterial and collector streets.
- (c) The minimum side yard, measured from the side lot line, shall not be less than eight (8) feet on one side of a lot and twelve (12) feet on the other side for single-family and ten (10) feet for two or more units per side. But it shall be seventy-five (75) feet if located on arterial and collector streets.

**(6) Building Height**

No building shall be more than two and one half (2 1/2) stories or thirty five (35) feet high, excepting church steeples.

**(7) Parking Requirements**

- (a) There shall be a minimum of two (2) stall garages for each residential dwelling unit including manufactured and modular houses.

(b) Parking for the conditional uses and non-residential uses shall be subject to the provisions of Section 17.6.5.

(c) All driveways shall be constructed in accordance with the requirements of the City of Horace Municipal Ordinances and shall be made of concrete or asphalt.

**(8) Sign Requirements**

(a) There shall be no more than one identification sign per residential detached dwelling structure and one sign for multi-family units not exceeding six (6) 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.

(b) Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.

(c) Non-residential and conditionally permitted uses shall be subject to the provisions of Section 17.6.9.

**17.5.7 R-4 Intermediate Density Residential District**

**(1) Purpose**

The R-4 medium density residential district is primarily established to promote a suitable residential environment to accommodate duplexes, town houses and small apartment buildings with five to eight units per structure.

**(2) Permitted Uses**

The following uses must be connected to public water and sewer.

(a) Single-family houses including new manufactured and modular houses.

(b) Two to eight family dwelling units, including duplexes town houses, garden apartments not exceeding eight units per building in one or two story structures.

(c) Home occupation.

(d) Accessory buildings and structures not to exceed eight hundred and forty (840) square feet, provided that the area coverage shall not exceed 45% of the lot.

- (e) Parks and play grounds, golf courses and outdoor sport facilities.
- (f) Churches and related buildings
- (g) Day care facilities.

**(3) Conditional Uses**

The following uses are subject to the provisions of Section 17.11.2 and must be connected to public water and sewer.

- (a) Bed and breakfast establishments.
- (b) Hospitals, medical clinics, short or long-term care homes.
- (c) Manufactured home parks as provided in Section 17.5.6 (3) (b).
- (d) Public and private utilities and structures.

**(4) Lot Area, Lot Width and Lot Coverage**

- (a) For single-family units and new manufactured houses the minimum lot area shall be eight thousand four hundred (8,400) square feet with a minimum of seventy (70) feet of width.
- (b) For duplexes, town houses and small apartment buildings (3-4 units), the minimum lot area shall be four thousand (4,000) square feet per unit.
- (c) For larger apartment complexes of 5-8 units the minimum lot area shall be thirty-five hundred (3,500) square feet per unit.
- (d) The minimum lot width shall be fifty (50) feet per unit for two attached units and forty (40 ) feet per unit for three to eight dwelling units if built on one floor and one hundred and fifty feet (150) feet for 5-8 units if in two story units.
- (e) Maximum lot area coverage shall be 50%.

**(5) Yard Requirements**

- (a) The minimum front yard, measured from the front lot line, shall be thirty (30) feet from local streets and seventy-five (75) feet from arterial and collector streets including manufactured or modular houses inside or outside of a park.

(b) The minimum rear yard, measured from the rear lot line, shall be thirty (30) feet. But if placed on arterial and collector streets, it shall be seventy-five (75) feet. This includes manufactured and modular houses inside or outside of a park.

(c) The minimum side yard, measured from the side lot line, shall be eight (8) feet on one side of a lot and twelve (12) feet on the other side for single-family and ten (10) feet on each side of the lot for two (2) or more units. But it shall be seventy-five (75) feet if located on collector or arterial streets.

**(6) Building Height**

No building shall be more than two and one half (2 1/2) stories or thirty-five (35) feet high, excepting church steeples.

**(7) Parking Requirements**

(a) There shall be two (2) stall garages for each detached residential dwelling unit including manufactured homes and townhouses. There shall be a minimum of two (2) off street parking spaces for each residential unit for 2-8 residential units.

(b) Parking for conditional uses and non-residential uses shall be subject to the provisions of Section 17.6.5.

(c) All driveways shall be constructed in accordance with the requirements of the City of Horace Municipal Ordinances and shall be constructed of concrete or asphalt.

**(8) Sign Requirements**

(a) 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.

(b) Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.

(c) Signs for Non-residential uses and conditional uses shall be subject to the provisions of Section 17.6.9.

**17.5.8 R-5 Multiple Family Residential District**

**(1) Purpose**

The R-5 multiple-family residential district is primarily established to promote a suitable residential environment and to accommodate higher density residential development to meet the needs of various income and age groups in the City of Horace.

**(2) Permitted Uses**

The following uses must be connected to public water and sewer.

- (a) Multiple-family dwelling units up to fourteen (14) units per acre including duplexes, town houses and garden apartments.
- (b) Home occupation.
- (c) Accessory buildings and structures.
- (d) Parks and play grounds, golf courses and outdoor sport facilities.
- (e) Municipal facilities such as city hall, fire station, police station, library, and museum.
- (f) Churches and related buildings
- (g) Day care facilities.

**(3) Conditional Uses**

The following uses are subject to the provisions of Section 17.11.2 and must be connected to public water and sewer.

- (a) Bed and breakfast establishments.
- (b) Clinics and hospitals
- (c) Nursing homes.
- (d) Public and private schools.
- (e) Group homes, group quarters, lodging houses and rooming houses.
- (f) Professional offices.
- (g) Private clubs and fraternal organizations.

**(4) Lot Area, Lot Width and Lot Coverage**

- (a) The minimum lot area for each dwelling unit in a multiple family structure of more than five (5) units shall be three thousand (3,000)

square feet. For two to four dwelling units the minimum lot area shall be four thousand (4,000) square feet per unit.

(b) The minimum lot width in the R-5 multiple family residential district, for two to eight family units shall be forty (40) feet per unit if built on one floor. The minimum lot width in the R-5 multiple-family residential district for five or more units shall be one hundred fifty (150) feet if built on two (2) levels provided that all setbacks and yard requirements are met.

(c) Maximum lot area coverage shall be 60%.

**(5) Yard Requirements**

(a) The minimum front yard, measured from the front lot line, shall be fifty (50) feet from local streets and seventy-five (75) feet from arterial and collector streets.

(b) The minimum rear yard, measured from the rear lot line, shall be thirty (30) feet. But if located on arterial and collector streets, it shall be seventy-five (75) feet.

(c) The minimum side yard, measured from the side lot line, for two to eight units, shall be ten (10) feet and for eight (8) and more residential units it shall be fifteen (15) feet. But is shall be seventy-five (75) feet if located on arterial or collector streets.

**(6) Building Height**

(a) No residential building shall be more than two and one half ( 2 1/2) stories high for buildings with less than five dwelling units and three (3) stories or forty-five (45) feet high for buildings with five (5) or more units.

(b) Non-residential buildings shall not be more than three (3) stories or forty-five (45) feet high excepting church steeples and similar structures.

**(7) Parking Requirements**

(a) There shall be two (2) surfaced off-street parking spaces for each residential dwelling unit. For efficiency apartments there shall be at least one space per dwelling unit.

(b) There shall not be less than one off-street parking space for each five (5) beds in the nursing homes and group homes.

(c) Non-residential and conditional uses shall be subject to the provisions of Section 17.6.9.

(d) All driveways and parking areas shall be constructed in accordance with the requirements of the City of Horace Municipal Ordinances and constructed of concrete or asphalt.

**(8) Sign Requirements**

(a) 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.

(b) Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.

(c) Signs for Non-residential and conditional uses shall be subject to the provisions of Section 17.6.9.

**17.5.9 C-1 Neighborhood Commercial District**

All uses in this district must be connected to public water and sewer system.

**(1) Purpose**

The C-1 neighborhood commercial district is primarily established to accommodate the concentration of commercial and related uses to serve neighborhoods and smaller areas of Horace. Commercial uses must be compatible with adjoining uses and shall not negatively affect the adjoining properties because of noise, traffic or general appearance.

**(2) Permitted Uses**

(a) Accessory buildings and uses.

(b) Amusement places including bowling alleys, athletic clubs and health clubs.

(c) Banks and financial institutions and real estate offices.

(d) Bed and breakfast establishments.

(e) Fraternal and philanthropic organizations.

(f) Multiple family dwelling units and residential units of 5-14 units.



- (g) Professional offices for businesses and services without limitation.
- (h) Public buildings and facilities
- (i) Retail stores of all types including food, drug, clothing and the like

**(3) Conditional Uses**

The following uses are subject to the provisions of Section 17.11.2 and must be connected to public water and sewer systems.

- (a) Boarding and rooming houses for the aged including nursing homes if compatible with the surrounding area.
- (b) Hotels and motels if compatible with the surrounding area.
- (c) Restaurant including eating and drinking establishments
- (d) Gas stations/C stores, auto repair shops and car washes.

**(4) Lot Area and Lot Width**

- (a) The minimum lot area for commercial use shall be twenty thousand (20,000) square feet for commercial uses. For multiple-family the minimum lot area shall be the same as R-5 Residential District.
- (b) The minimum lot width for commercial district shall be one hundred (100) feet. It shall be the same as R-5 residential district for multiple family uses.
- (c) The maximum lot coverage shall be sixty percent (60%).

**(5) Yard Requirements**

- (a) The minimum front building line, measured from the front lot line, shall be thirty (30) feet from local streets and seventy-five (75) feet from arterial and collector streets.
- (b) The minimum rear building line, measured from the rear lot line, shall be thirty (30) feet. But it shall be seventy-five (75) feet if located on collector or arterial streets.
- (c) The minimum side building line, measured from the interior side of the lot shall be ten (10) feet. But it shall be seventy-five (75) feet if located on collector or arterial streets.

**(6) Building Height**

The building height requirements in the neighborhood commercial district shall not be more than sixty (60) feet.

**(7) Parking Requirements**

(a) For commercial uses, the front or rear yard spaces may be used for parking with a minimum of ten (10) feet of buffer from the property line.

(b) For commercial uses, parking shall be subject to the provisions of Section 17. 6.5

(c) For residential uses, there shall be two (2) off-street parking spaces for each dwelling unit.

(d) All driveways and parking areas shall be constructed in accordance with the requirements of the City of Horace Municipal Ordinances and shall be of concrete or asphalt.

**(8) Sign Requirements**

For uses in commercial district, the provisions of Section 17.6.9 shall apply.

**17.5.10 C-2 Town Center Commercial District**

All uses in this district must be connected to public water and sewer system. The City of Horace requires that all development in this district shall be based on a planned unit development, although the development may be carried in phases.

**(1) Purpose**

The C-2 Town Center Commercial District is primarily established to provide for concentrated commercial uses as a center for shopping, retail services and recreation and entertainment requires direct access, large number of parking spaces, and separation from other uses because of the intensity and frequency of consumer travel. All rezoning applications to C-2 Commercial District shall accompany a detailed site plan, as provided in Section 17.6.10.

**(2) Permitted Uses**

(a) Accessory uses.

(b) Advertising signs subject to Section 17.6.9.

- (c) Amusement places such as bowling alleys, athletic clubs, pool halls, theaters, miniature golf courses and similar outdoor or indoor facilities.
- (d) Animal hospitals and clinics, kennels excluding outdoor dog runs or exercise pens.
- (e) Art galleries and museums.
- (f) Bakeries and confectioneries.
- (g) Banks, insurance, financial institutions and real estate offices.
- (h) Battery and tire sales and service conducted indoors.
- (i) Building material and supply establishments in enclosed buildings.
- (j) Carpet and rug stores.
- (k) Catering businesses.
- (l) Churches and religious institutions
- (m) Department stores
- (n) Doctor and Dentist offices and clinics
- (o) Dry cleaning establishments and Laundromats.
- (p) Express parcel delivery establishments.
- (q) Furniture and refinishing and upholstering.
- (r) Garages for repair and service of motor vehicles including towing and wrecker service but not salvage operations.
- (s) Hotels and Motels
- (t) Intermediate care facilities
- (u) Libraries, community center, city-county offices and facilities.
- (v) Medical clinics and pharmacies
- (w) Motor vehicle sales and rental.
- (x) Multi-family housing units of 8-14 units

(y) Office and supply stores and business machine sales and services.

(z) Parks and Open spaces

(aa) Pet stores

(ab) Radio, television, and electronic equipment sales and service.

(ac) Restaurants including all types of eating and drinking establishments.

(ad) Retail establishments of all types

(ae) Shopping malls including retail services

(af) Sporting goods stores

(ag) Taverns and liquor stores.

**(3) Conditional Uses**

All conditional uses must be connected to public water and sewer system. Conditional uses shall not be located less than two hundred (200) feet from a residential district and shall be subject to the provisions of Section 17.11.2. All conditional use applications shall accompany a site plan.

(a) Elderly care facilities but not nursing homes.

(b) Funeral homes

(c) Gas stations and minor repair conducted indoors.

(d) Schools and daycare facilities.

**(4) Lot Area, Lot Width and Lot Coverage**

(a) The minimum lot area for C-2 commercial district shall be five (5) acres.

(b) The minimum lot width for C-2 commercial district shall be three hundred (300) feet.

(c) The maximum lot coverage shall be 70% including parking areas.

**(5) Yard Requirements**

(a) The minimum front building line, measured from the front lot line, shall be seventy-five (75) feet from all public streets including arterial, collector, connector and local streets.

(b) The minimum rear building line for properties on arterial and collector streets shall be seventy-five (75) feet and for other streets the minimum shall be fifty (50) feet.

(c) The minimum side building yard abutting arterial, collector and local streets shall be seventy-five (75) feet.

**(6) Building Height**

The building height requirement in C-2 commercial district shall not exceed sixty (60) feet.

**(7) Parking Requirements**

(a) The front yard may be used for parking, provided there is a minimum of ten (10) feet of buffer between the parking area and lot line.

(b) Parking shall be subject to the provisions of Section 17.6.5.

(c) All driveways shall be constructed in accordance with the requirements of the City of Horace Municipal Ordinances and shall be made of asphalt or concrete.

**(8) Sign Requirements**

Signs in C-2 commercial district shall be subject to the provisions of Section 17.6.9.

**17.5.11 C-3 General Commercial District**

**(1) Purpose**

The C-3 general commercial district is primarily established to accommodate those commercial uses which by nature and operational characteristics such as direct access, large number of parking spaces, require separation from other uses because of the intensity and frequency of consumer travel. All applications for rezoning to C-3 Commercial shall accompany a site plan as described in Section 17.6.10.

**(2) Permitted Uses**

All uses in this district must be connected to public water and sewer system.

(a) Accessory uses.

- (b)** Advertising signs and billboards, subject to Section 17.6.2.
- (c)** Amusement places such as bowling alleys, athletic clubs, pool halls, theaters, miniature golf courses and similar outdoor or indoor facilities.
- (d)** Animal hospitals and kennels including outdoor dog runs or exercise pens when located not less than two hundred (200) feet from any residential district.
- (e)** Bakeries and confectioneries.
- (f)** Banks, insurance and financial institutions.
- (g)** Battery and tire service establishments.
- (h)** Churches and religious institutions.
- (i)** Dry cleaning establishments and Laundromats.
- (j)** Express parcel delivery establishments.
- (k)** Feed and seed stores.
- (l)** Frozen food lockers, but not slaughtering on the premises.
- (m)** Fuel sales establishments.
- (n)** Funeral homes.
- (o)** Furniture and refinishing and upholstering.
- (p)** Garages for repair and service of motor vehicles including towing and wrecker service but not salvage operations.
- (q)** Green houses and landscaping businesses.
- (r)** Hardware stores and building supply uses contained in buildings.
- (s)** Highway maintenance shops.
- (t)** Machinery and equipment sales and service including farm machinery and accessories.
- (u)** Marine vehicle sales and service.

- (v) Meat product sales and locker rentals.
- (w) Monument sales.
- (x) Motels and Hotels.
- (y) Motor vehicle sales and rental including cars, trucks and water crafts.
- (z) Recreational vehicles sales and service
- (aa) Restaurants including all types of eating and drinking establishments.
- (ab) Retail uses and services
- (ac) Sporting goods stores and bait shops.
- (ad) Taverns and liquor stores.

**(3) Conditional Uses**

All uses in this section must be connected to public water and sewer system. Conditional uses shall not be located less than two hundred (200) feet from a residential district and shall be subject to the provisions of Section 17.11.2. All applications for conditional use permit shall accompany a site plan as described in Section 17.6.10.

- (a) Contractors yard, provided that the storage area is fenced and not visible from the street.
- (b) Packing and crating operation
- (c) Plumbing shops and yards.
- (d) Lumber yards with outside storage.

**(4) Lot Area, Lot Width and Lot Coverage**

- (a) The minimum lot area for C-3 commercial district shall be one acre.
- (b) The minimum lot width for C-3 commercial district shall be two hundred (200) feet.
- (c) The maximum lot coverage shall be 70%.

**(5) Yard Requirements**

(a) The minimum front building line, measured from the front lot line, shall be seventy-five (75) feet from all public streets including arterial, collector, connector and local streets.

(b) The minimum rear building line from arterial collector, connector and local streets shall be seventy-five (75) feet.

(c) The minimum side building line measured from arterial, collector, connector and local streets rights-of-way shall be seventy-five (75) feet.

**(6) Building Height**

The maximum building height requirement in C-3 general commercial district shall be sixty (60) feet.

**(7) Parking Requirements**

(a) The front yard, side yard and rear yard setbacks may be used for parking provided that a ten (10) foot buffer/landscaping area adjoining the street right-of-way is maintained.

(b) Parking in C-3 commercial district, shall be subject to the provisions of Section 17.6.5.

(c) All driveways and parking areas shall be constructed in accordance with the requirements of the City of Horace Municipal Ordinances and shall be made of concrete or asphalt.

**(8) Sign Requirements**

For signs in C-3 commercial district shall be subject to the provisions of Section 17.6.9.

**17.5.12 I-1 Light Industrial District**

**(1) Purpose**

The I-1 Light Industrial District is primarily established to accommodate light industrial and manufacturing uses and facilities appropriate to the City of Horace. 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. I-1 Industrial District is mainly to accommodate wholesaling and distribution related uses. Because of the limitation of water resources, no water consumptive industry is permitted in Horace. All applications for rezoning to I-1 Industrial District shall accompany a site plan as required by Section 17.6.10. All uses and conditional uses must be placed in industrial park setting.

## **(2) Permitted Uses**

All uses and conditional uses in this district must be connected to public water and sewer system. A site plan is required for all uses in this district.

- (a) Accessory uses.
- (b) Any industrial or manufacturing operation provided that dust, fumes, odors, smoke, vapor, noise, lights and vibration producing operations shall be enclosed in a building(s) within the premises.
- (c) Assembly of parts or machinery performed inside of building(s).
- (d) Building material and supply establishments.
- (e) Contractors' yards and construction shops.
- (f) Electric power production and substations.
- (g) Fuel sales establishment including bottle gas.
- (h) Public utility buildings including water and waste water facilities and accessories.

## **(3) Conditional Uses**

The following uses shall be subject to the provisions of Section 17.11.2 and must be connected to public water and sewer. All conditional use applications shall accompany a site plan required by Section 17.6.10. Conditional uses shall not be located nearer than five hundred (500) feet from any residential area.

- (a) Agricultural related material processing and production
- (b) Local and regional sanitary landfills, compost sites and incinerators.
- (c) Communication tower including radio, TV, microwave, cellular phone towers, microwave relay towers and related facilities.

## **(3) Lot Area, Lot Width and Coverage**

(a) The minimum lot area for I-1 Industrial District shall be two (2) acres.

(b) The minimum lot width for I-1 Industrial District shall be two hundred (200) feet.

(c) The minimum lot coverage, including parking area, shall be seventy percent (70%).

**(5) Yard Requirements**

(a) The minimum setback from arterial, collector, connector and local streets shall be one hundred (100) feet.

(b) The minimum rear building line for arterial, collector, connector and local streets shall be one hundred (100) feet.

(c) The minimum side building line from all public streets shall be seventy-five (75) feet.

**(6) Building Height**

The building height requirement in I-1 Industrial District shall not be more than sixty (60) feet.

**(7) Parking Requirements**

(a) Parking in the I-1 Industrial District, shall be subject to the provisions of Section 17.6.5.

(b) All driveways and parking areas shall be constructed in accordance with the requirements of the City of Horace Municipal Ordinances and shall be made of concrete or asphalt.

**(8) Sign Requirements**

Signs in the I-1 Industrial District shall be subject to the provisions of Section 17.6.9.

**17.5.13 I-2 General Industrial District**

**(1) Purpose**

The I-2 general industrial district is primarily established to accommodate industrial uses and facilities appropriate to the City of Horace. 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. Because of limitations of water resources no water consumptive industry is permitted in Horace. Due to the nature of this district all future uses shall be contiguous in an Industrial park. All applications for I-2 Industrial uses shall accompany a site plan as required in Section 17.6.10.

**(2) Permitted Uses**

All uses in this district, including conditional uses, must be connected to public water and sewer and shall not be closer than one thousand (1,000) feet from residential area.

- (a) Accessory uses.
- (b) Agricultural chemical production and storage.
- (c) Agricultural products and processing of non-water consumptive nature.
- (d) Any industrial or manufacturing operation provided that dust, fumes, odors, smoke, vapor, noise, lights and vibration producing operations shall be enclosed in buildings within the premises.
- (e) Assembly of parts or machinery performed inside of buildings.
- (f) Building material and supply establishments.
- (g) Contractors' yards and construction shops.
- (h) Electric power production and substations.
- (i) Fuel sales establishment including bottle gas.
- (j) Public utility buildings including water and waste water facilities and accessories.

**(3) Conditional Uses**

The following uses shall be subject to the provisions of Section 17.11.2, Conditional Uses. All conditional use applications shall accompany a site plan required by Section 17.6.10 and shall not be located closer than one thousand (1,000) feet from any residential area.

- (a) Agricultural related material production including fertilizer plants, propane gas storage, gasoline storage and the like.
- (b) Local and regional sanitary landfills, compost sites and incinerators.

**(4) Lot Area, Lot Width and Coverage**

(a) The minimum lot area for I-2 Industrial District shall be five (5) acres.

(b) The minimum lot width for I-2 Industrial District shall be three hundred (300) feet.

(c) Maximum lot area coverage shall be 70%.

**(5) Yard Requirements**

(a) The minimum setback from all public streets shall be one hundred (100) feet.

(b) The minimum rear building line from all public streets shall be one hundred (100) feet.

(c) The minimum side building line shall be seventy-five (75) feet.

**(6) Building Height**

The building height requirement in I-2 Industrial District shall not be more than sixty (60) feet.

**(7) Parking Requirements**

(a) Parking in the I-2 Industrial District, shall be subject to the provisions of Section 17.6.5.

(b) All driveways shall be constructed in accordance with the requirements of the City of Horace and shall be of concrete or asphalt.

**(8) Sign Requirements**

Signs in the I-2 Industrial District shall be subject to the provisions of Section 17.6.9.

**17.5.14 PUD Planned Unit Development Overlay District**

**(1) Purpose**

The PUD, planned unit development overlay district, as an overlay district, is designed to encourage and promote environmental quality of the City of Horace by allowing for greater freedom, imagination and flexibility in the development of land while complying with the intent and purpose of this ordinance, other related municipal codes and the Horace 2028 Comprehensive Plan. It is further the purpose of the PUD District to encourage more rational and cost effective development with relationship to public services, energy conservation and preservation, compatibility with surrounding uses, higher standard of site and building design and conservation of natural features.

A planned unit development may be overlaid on any of the zoning districts as established by this ordinance. A PUD District is distinguished from the traditional and separate process of zoning and land subdivision and approaches a site holistically. The density, bulk, height, minimum lot size and use may be altered by agreement between the developer and the City of Horace. To finalize an agreement, the developer must demonstrate that the proposal is unique to the site, the area and the City of Horace and meets the standards set forth by this ordinance, other ordinances of the City and the Horace 2028 Comprehensive Plan. The benefits of the PUD District must be significant to warrant any modifications of standards required under any district regulations by the City of Horace.

A Planned Unit District is not intended as a short cut in the approval process, nor shall it be construed as a means of relaxing or circumventing regulations without ample justification and benefit to the City of Horace.

## **(2) Permitted Uses**

All uses in PUD District must be connected to public water and sewer system.

- (a)** Any group of permitted uses in any zoning district in these regulations, provided that there is distinct compatibility and harmony among the uses, with no adverse effects on the adjoining uses.
- (b)** No use shall be permitted in the PUD district except in conformity with Horace 2028 Comprehensive Plan and the detailed development plan prepared to meet the requirement of this district.
- (c)** In a PUD District the uses and their intensity, appearance and arrangement shall be of such visual and operational character which: (i) are compatible with the physical nature of the site or area; (ii) would not adversely affect the provisions for public services and; (iii) would not create a traffic or parking demand incompatible with the existing or proposed facilities.
- (d)** The PUD District shall not adversely affect the economic prosperity of the City of Horace or its extra-territorial planning area.
- (e)** The PUD District shall include assurances that the proposed plan would be completed in a manner that would not adversely affect the city or the area as a result of termination. The terms of the assurances shall address financial and development considerations in sufficient detail as required by the city.

## **(3) Restrictions**

A PUD District shall not be considered if the proposal adversely affects the economic prosperity of the City of Horace, or its extra-territorial area. A PUD

District shall not be considered if it provides for intensity, appearance and arrangement for use of space(s) that:

- (a) Is incompatible with the existing physical nature of the site or area;
- (b) Is a burden on existing City of Horace services and utilities;
- (c) Creates traffic or parking demands incompatible with the existing or proposed facilities;
- (d) Would be a financial burden or development burden on the City of Horace, should the developer's proposal for a PUD District fail to be fully implemented.
- (e) Makes no distinct difference if a proposal is carried out through standard rezoning, conditional use permit or land subdivision process.

**(4) Site Requirements**

- (a) The minimum land parcel for PUD District shall be five (5) acres
- (b) In PUD District the location, number and configuration of parking spaces for mixed uses, commercial and industrial PUD shall be a part of the detailed development proposal.
- (c) In PUD District the location, type and size of signs shall be a part of the detailed development plan.
- (d) All driveways and parking areas shall be constructed in accordance with the requirements of the City of Horace Municipal Ordinances and shall be of concrete or asphalt.

**(5) Development Plan**

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

- (a) Location of existing property lines, buildings, drives, streams, wooded areas and other significant natural features.
- (b) Detailed layout of proposed streets and location of blocks for designated uses including the rights-of-way widths and street names.
- (c) Location of open spaces and facilities for public uses.
- (d) Existing drainage pattern based on the current topographic information and the location of land to be dedicated for park and playgrounds and open spaces A detailed drainage plan drawn on contour

maps of no less than one (1) foot contour interval and delineates water retention area(s).

(e) The development plan shall be drawn at a scale of one inch equalling two hundred (200) feet or less.

(f) Three dimensional drawings showing location, height and bulk of buildings based on the buildings footprints.

(g) Other engineering or financial information required by the city including a developer's agreement.

**(6) Data Submission Requirements**

(a) Legal description of the proposed PUD District

(b) A statement describing the general character of the intended development and why a PUD District is proposed.

(c) Detailed development plan as described above.

(d) Proof of financial capability of the owner(s)/developer(s) to carry out the project.

(e) Analysis of economic impacts for a 10 year period.

(f) An outline of the anticipated schedule and sequence of development if to be carried out in phases for the total PUD District.

(g) A description of all anticipated municipal services and utilities together with a description of easement or access rights necessary to provide municipal services and utilities.

(h) A preliminary subdivision plat meeting the requirements of this ordinance for traditional platted subdivisions.

(i) Agreements, by-laws, provisions and covenants which insures the timely and satisfactory completion of the project without posing a burden on the city or adjoining properties.

**(7) Review and Approval Procedure**

(a) A pre-application consultation meeting with the Code Administrator, Planning Commission shall be held to allow developers to discuss ideas and alternatives for a PUD District to determine if the preliminary proposal, ideas meet the requirements of the City of Horace and financial support by the developer is realistic.

(b) On receipt of the completed application for a PUD District and a filing fee of \$1,000.00, the application shall be reviewed by the Code

Administrator to see if the application contains all prerequisites necessary for an application for a PUD District. If acceptable, the application shall be referred to the Planning Commission and its staff for study to determine which current requirements of the City of Horace need to be changed should the proposed plan for PUD District be approved. After identification of areas of conflict, the Planning Commission will review the developer's proposal, and give preliminary approval to the concept of a PUD District for the total area of the proposed PUD District, or such lesser area as is deemed appropriate. The Planning Commission may require additional information from the developer, and shall have the right to propose modifications to the proposed plan for the PUD District before making its recommendations to the Horace City Council.

(c) The Planning Commission shall hold a public hearing on the proposed plan for the PUD District when the Planning Commission has identified all alternatives involving agreement and disagreement on the proposed plan for a PUD District.

(d) After receipt of public opinion at the public hearing duly noticed, the Planning Commission shall act upon the proposed plan for a PUD District setting forth all areas of agreement with the developer's plan, as modified during the process of investigation and inquiry, and identifying the position(s) of the Planning Commission on those areas of disagreement with the developer's plan for the PUD District, as modified.

(e) The Horace City Council may act upon the application for the PUD District, or deliberate more or hold an additional public hearing, after which it may approve, deny or further modify the development plan. Developer shall be responsible for all costs associated with advertising the public hearings and technical advice required by the Horace City Council and Planning Commission.

(f) Upon approval by the Horace City Council and delivery of all executed documents deemed necessary to meet the terms of the agreement providing for the approved PUD District, a final plat meeting the requirement of this ordinance and support of the Horace City Attorney and Horace City Engineer identifying the PUD District will be recorded with the Cass County Recorder of Deeds. Thereafter, building permits will be issued only if the application for building permit complies with the terms and conditions allowable for the PUD District. A separate building permit fee, according to the fee schedule of the City of Horace, shall be required.

(g) If the developer fails to develop the PUD District as planned, the PUD District shall automatically terminate two (2) years after the approval of the PUD District unless (1) renewed for another two (2) years by affirmative vote of the Horace City Council, and (2) developer's



payment of an additional administrative fee of \$1,000. No building permits may be granted after termination of the PUD District.

### **17.5.15 FP FLOOD PLAIN DISTRICT**

The FP Flood Plain District, as an overlay district, consists of the land which has been or may be covered by flood water as delineated for the City of Horace and Cass County, North Dakota and approved by FEMA Federal Emergency Management Agency for administration of the National Flood Insurance Program or other maps and documents provided by the State of North Dakota. The provisions of this district shall apply to all lands and zoning districts in Horace and its extra-territorial planning area.

#### **(1) Purpose**

The FP Flood Plain District is primarily established to designate those areas which need to accommodate the run-off water and to protect the public and private property from the adverse effects of flooding by prohibiting development on the lands prone to flooding.

#### **(2) Permitted Uses**

(a) Agricultural uses including general farming, pasture, grazing and related uses provided that the buildings and structures for human habitation are flood proofed.

(b) Non-structural uses including storm water retention ponds and treated waste water effluent storage.

(c) Public utilities including railroads, streets, bridges, channels, and pipelines.

(d) Outdoor recreational uses including, golf courses, bicycle trails, picnic areas if cost effective.

#### **(3) Conditional Uses**

Temporary buildings and structures not related to flood control and farming such as stands, fences, shelters, temporary signs and temporary parking. These uses shall be subject to the provisions of Section 17.11.2.

#### **(4) Building Height**

No structure shall be more than thirty five (35) feet high excepting farm silos.

#### **(5) Sign Requirements**

Temporary signs shall be no larger than thirty (30) square feet in area and shall be removed in sixty (60) days from the date of installation.

## **17.6 SPECIAL PROVISIONS**

### **17.6.1 Communication Structures and Facilities**

#### **(1) Purpose**

- (a)** To guide and regulate placement of commercial radio/TV towers and antennas, cellular phone towers, microwave towers, relay towers and the like
- (b)** To assure that public health and safety is protected.
- (c)** To assure that conflict in land uses is avoided
- (d)** To assure that commercial communication towers are located in areas with the least environmental impact on adjoining uses.

#### **(2) General Requirement**

- (a)** Amateur radio and ham radio towers are permitted in all zoning districts as a conditional use subject to the provisions of Section 17.11.2
- (b)** Amateur radio and ham radio towers height shall not exceed two times the maximum height of the structure on which to be placed but not to exceed forty (40) feet whichever is smaller.
- (c)** Commercial telecommunication towers may be permitted as a conditional use in A-Agricultural District and I-1 and I-2 Industrial Districts. Such towers are not permitted in residential and commercial districts.
- (d)** Cellular phone towers may be permitted as antenna attachments to church steeples provided that there is sufficient proof for the load bearing capacity of the steeple and sufficient distance from the public streets and residential areas in the event, the steeple or the antenna attachment collapses.

#### **(3) Special Requirements**

- (a)** A site plan showing the location of adjoining uses, location, description including the type and height of the communication tower as provided in Section 17.6.10.

(b) Commercial communication towers shall not be higher than two hundred (200) feet measured from the base of the tower.

(c) Evidence of ownership of property or option for the land with sufficient space for the main tower and supporting cables/guy wires and related structures.

(d) Setbacks equal to one hundred and ten percent (110%) of the height of the tower.

(e) Secure fencing of the site not to exceed eight (8) feet high chainlink fences to avoid unauthorized climbing.

(f) Landscaping of the perimeter of the site to create a visually pleasing environment.

**(4) Review and Approval Procedure**

(a) The developer/owner arranges for a pre-consultation meeting with the Code Administrator and the Planning Commission to determine the feasibility and applicability of the proposed commercial communication tower.

(b) An application form together with supporting data described under general and special requirements mentioned above and other financial, engineering and environmental data that the Planning Commission requires.

(c) An application fee of \$1,000.00.

(d) The Planning Commission sets a date for public hearing, the notice of which shall be in the official newspaper of Horace. All property owners within three hundred (300) feet of the proposed site, excluding the public rights-of-way to be notified by mail of the date of the public hearing.

(e) After the hearing the Planning Commission shall make its recommendations to the City Council for approval, conditional approval or denial.

(f) The City Council, after a public hearing and review of the submitted documents including the comments of the public, shall make a decision for approving or denying a conditional use permit.

**17.6.2 Feed Lots**

**(1) Purpose**

These regulations are designed to allow feed lots for feeding of livestock, fur bearers and poultry at the same time protect the adjoining uses against odor, run off and other incompatible characteristics that may be associated with feed lots. All proposed feed lots shall be subject to the provisions of Section 17.6.10.

**(2) General Requirements**

(a) All feed lots as defined by this ordinance are only permitted as conditional uses subject to the provisions of this ordinance and the requirements of the North Dakota State Health Department.

(b) All feed lots shall be designed and constructed with all reasonable preventive measures to avoid surface run-off including construction of sealed collection and retention ponds.

(c) Where appropriate, there shall be sufficient drainage to avoid pollution of the ground water from the standing effluents.

(d) Feed lots shall not be placed in the floodplains.

(e) 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.

(f) Application fee of \$1,000.00.

**(3) Proximity to Existing Uses**

No feed lot shall be located nearer than one thousand (1,000) feet from a residential development in the extra territorial area or corporate limits of the City of Horace

**17.6.3 Fences and Hedges**

Fences are structures constructed of any material including wood, metal and plastics for the purpose of providing privacy, safety and protection of a property.

(1) In residential districts, fences may be erected directly on the property line.

(a) In residential district for the front yards, the height of the fences or hedges shall not exceed three (3) feet.

(b) For the side and rear yards, the height of the fence, hedges and plants shall not exceed six (6) feet, so long as a vision triangle near the street intersection is maintained.

(2) In commercial and industrial districts, the height of the fence shall not exceed eight (8) feet, and that such a fence shall not obstruct the view of the motorist within fifty (50) feet of an intersection. Fences may be installed on the property line.

(3) All fences require a permit from the Code Administrator of the City of Horace, except temporary fences for construction and snow fences.

(4) The finished side of fences that are installed must face the outside of the property of which the fence is installed.

#### **17.6.4 Junk or Salvage Yard**

##### **(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 junk yards as business places.

##### **(2) Site Approval Requirements**

All sites for salvage and junk yards application shall be subject to the provisions of Section 17.6.10. An application fee of \$1,000.00 is required..

##### **(3) Locational Standards**

(a) No salvage or junk yard shall be located within five hundred (500) feet of a residential district and two hundred (200) feet of commercial buildings and structures.

(b) No salvage or junk yard shall be located in areas which due to high water table, flooding and soil conditions may affect the quality of surface and ground water.

(c) No salvage or junk yard shall be located nearer than one hundred (100) feet of all public streets and highway rights-of-way.

(d) 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 fences, building and land form.

#### **17.6.5 Off -Street Parking**

**(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.

**(2) General Requirements**

(a) An off-street automobile parking space shall be at least nine (9) feet wide and twenty (20) feet long, exclusive of access drives.

(b) 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 such as asphalt or concrete; and graded to dispose of all surface water run-off but not be diverted to adjoining properties.

(c) Parking of recreational vehicles as living spaces in residential districts shall be limited to two (2) weeks. All recreational vehicles shall be parked on surfaced parking spaces.

(d) All driveways shall be constructed in accordance with the requirements of the City of Horace Municipal Ordinances and current engineering standards.

**(3) Special Requirements**

(a) No structure shall be erected or enlarged without meeting the following parking requirements:

(i) For retail businesses and services, offices, studio, bank, medical or dental clinics, two (2) parking spaces for each one hundred (100) square feet of floor area.

(ii) For private club or lodge; two parking spaces for each one hundred (100) square feet of service area.

(iii) For restaurant, eating and drinking establishment; two (2) parking spaces for each one hundred (100) square feet of floor area.

(iv) For industrial uses there shall be one off street parking space for every two (2) employees.

(v) All parking areas shall be subject to the provisions of Section 17.6.10.

### **17.6.6 Public Nuisances**

Public nuisances including but not limited to noxious weeds, smoke, gases, radio interference, noise, accumulation of junk, trash, rubbish, automobiles, dead or diseased trees shall not be permitted and shall be subject to violation and penalties of Section 17.13 of this ordinance.

### **17.6.7 Sand and Gravel Operations**

#### **(1) Purpose**

The purpose of these provisions is to provide for mining, stock piling and extraction of sand and gravel 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 of Horace.

#### **(2) Site Approval Requirements**

All sand and gravel mining and stock piling excavation sites require approval by the City Council and shall be subject to the provisions of Section 17.6.10.

#### **(3) Data Submission Requirements**

(a) 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 points of access to the site, maps showing the existing and proposed contours after the land is mined and a time table for operation of the site.

(b) A guarantee that the reclamation of the site be completed within one year of the closure of the operation of the site.

(c) Proof of compatibility with the existing land form including the vegetation, surface and ground water resources.

(d) The City of Horace maintains the authority to terminate the operation of the site if it determines violation of the City Ordinance and lack of compliance by the operator(s).

(e) Application fee of \$1,000.00.

#### **(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) Permit Requirements**

Any person who operates a sand and gravel business shall obtain a permit from the Code Administrator and a filing fee of \$1,000 before starting any mining, excavation, stock piling and sale of the sand and gravel sites, and after approval by the City Council. The approval of the site plan for operation shall be null and void if the applicant does not proceed with extraction and compliance with this code within one year of permit issuance.

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

### **(1) Compliance with State Laws and Rules**

Any person who operates sanitary landfills, inert landfills or similar solid waste sites shall comply with all North Dakota state laws and administrative rules set forth by the North Dakota State Health Department.

### **(2) City Ordinance and Procedures**

The City of Horace hereby adopts solid waste provisions, subject to the Provisions of NDCC 11-33-20, to assure meeting the purposes of this ordinance and the Horace Comprehensive 2028 Plan.

### **(3) Purpose**

The purpose of these provisions is to protect public health, ground and surface water resources, conflict with present land uses and preservation and protection of natural resources in the City of Horace and its extra-territorial planning area.

### **(4) Site Approval Requirements**

All solid waste sites require approval by the City Council and shall be subject to the provisions of Section 17.6.10.

### **(5) Locational Standards**

(a) No landfill or incinerator shall be located within one thousand (1,000) feet of residential uses, and five hundred (500) feet of commercial buildings and structures.

(b) 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.

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

### **(6) Data Submission Requirements**



(a) 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.

(b) A plan for operation of the site including a descriptive text explaining consistency or inconsistency with the natural or man made environment.

(c) Records of data and information submitted to the state of North Dakota appropriate agencies and the county as a part of the application for state and county permits.

(d) The City Council may require additional information if it deems it necessary.

(e) Application fee of \$1,000.00.

#### **(7) Statement of Findings**

Upon the public notification and a public hearing before the Planning Commission, the City Council shall determine whether the proposed site meets the requirements of this ordinance and public health, safety and welfare.

#### **17.6.9 Sign Requirements**

##### **(1) Purpose**

The purposes of regulating signs in the City of Horace 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.

##### **(2) General Requirements**

(a) Directory signs shall not be larger than twenty (20) square feet in area for permitted uses.

(b) Directory signs for conditional uses shall not be larger than forty (40) square feet.

(c) Billboards and large advertising signs along arterial and collector streets shall be subject to the requirements of Section 17.11.2, Conditional Use Permits and shall be set back seventy-five (75) feet.

(d) No sign shall be installed closer than five (5) feet to the property line.

(e) A permit fee of \$5.00 per square foot for each permanent sign is required.

### **(3) Special Requirements**

(a) Signs in the residential districts, particularly along local streets, shall be limited to: (i) One sign per dwelling structure not exceeding twelve (12) square feet in area which may be wall, pedestal, ground or projecting type; (ii) One temporary sign such as “For Sale”, “For Rent”, not exceeding twenty (20) square feet in area.

(b) Signs in the commercial and industrial districts shall be limited to: (i) One general identification sign per business not exceeding fifty (50) square feet in area which may be wall, pedestal, ground or projecting type. (ii) Temporary signs including “For Sale”, “For Rent”; political campaign signs, greeting signs and rally signs not exceeding fifty (50) square feet in area; (iii) Directory and advertising signs in agricultural, commercial and industrial districts shall not be larger than fifty (50) square feet and not placed nearer than six hundred (600) feet apart.

#### **17.6.10 Site Plan Requirement**

Site plan is a physical development plan for a specific area of land consisting of map(s) and written material describing the nature of the proposed project. All conditional use permits require a site plan and other documents required for each zoning district. Application for permit for communication tower and facilities, feed lots, fences and hedges, junk and salvage yards, sand and gravel operations, sanitary landfills and signs require site plans.

##### **(1) Purpose**

The purpose of site plan is to provide a detailed study of the site proposed for rezoning and development of a parcel(s) of land to assist the City Council in the decision making process.

##### **(2) General Requirements**

All multi-family uses, commercial and industrial uses for rezoning, conditional use applications require a site plan to accompany the documents submitted to the Code Administrator at least two (2) weeks before the public hearing before the Planning Commission. The Code Administrator has the authority to withhold the application until all required documents including the site plan are submitted.

##### **(3) Data Submission Requirements**

The map(s) shall be drawn to a scale of one inch equaling two hundred (200) feet or smaller and shall include the following:

- (a) Location of all property lines, street, railroad rights-of-way for a distance of three hundred (300) feet.
- (b) A foot print of building (s), location of parking areas and landscaping areas.
- (c) A drainage plan including the location of water retention and discharge areas.
- (d) Designating areas to be dedicated as public street rights-of-way, parks and open spaces, drainage and utility easements.
- (e) Designation of private drives, streets and common areas to be managed privately.
- (f) A statement guaranteeing that the development shall be carried out in a timely fashion unless there are financial difficulties or market influences delaying the development.
- (g) Application fee of \$250.00 to cover the cost of notices and staff time unless another application fee is required.

**(4) Review and Approval Procedure**

The Planning Commission shall hold a public hearing, the notices of which are published in the official newspaper of Horace. It receives comments from those in attendance and reviews written comments submitted to the Code Administrator.

- (a) If it finds that all requirements and the proposal is consistent with the purpose of this ordinance it shall recommend approval to the City Council.
- (b) If it finds that the proposal, in part, is inconsistent with the purpose of this ordinance and the Horace 2028 Comprehensive Plan, it may recommend conditional approval. The Planning Commission has the authority to require other information before it makes its recommendation.
- (c) If it finds that the proposal does not meet the purpose of the ordinances, plans and policies of Horace and does not serve public interest, it shall recommend denial of application to the City Council.
- (d) The City Council upon due public hearing may approve or deny the application.

- (e) The City of Horace retains the right to withdraw the permit if the project does not begin in two (2) years from the date of approval.

## **17.7 LAND SUBDIVISION**

This section of the code deals with the standards, process and administration of land subdivision regulations.

### **17.7.1 Purpose**

- (1) To insure the orderly development of the City of Horace
- (2) To provide for proper arrangement of streets in relation to other existing and planned streets.
- (3) To provide for adequate and convenient open spaces for traffic, utilities, fire fighting, recreation, light and air.
- (4) To facilitate adequate provisions for access, placement of water and sewer systems, schools, and public open spaces.
- (5) To avoid development of unsuitable areas because of soil, drainage and other physical limitations.
- (6) To facilitate subdivision of larger parcels into smaller parcels and lots.
- (7) To implement the Horace 2028 Comprehensive Plan.

### **17.7.2 Preliminary Plat**

The preliminary plat shall be prepared by a registered engineer/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 up to eighty (80) acres even though only a small portion of it is proposed for the development at the time.

#### **(1) Pre-Application Consultation**

Prior to the submission of a preliminary plat, the subdivider shall consult the Code Administrator for assistance regarding the requirement of the City of Horace's Plans, Ordinances and Policies for subdividing any parcel of land. This step is intended to inform the subdivider of the importance of the plans, ordinances and policies to assist him/her in meeting the land subdivision requirements of the City of Horace.

#### **(2) Preliminary Plat Content**

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

- (a) The preliminary plat shall be drawn at a scale of one inch representing one hundred (100) feet.
- (b) Name and location of the subdivision.
- (c) Date, graphic scale and north point.
- (d) Boundary line of the proposed subdivision indicated by a solid heavy line, accurately drawn to scale and showing distances and bearings.
- (e) Location, right-of-way, width and names of any existing or proposed streets, alleys, public ways, easement, railroad, utility rights-of-way, parks and other public open spaces and corporate boundaries and section lines within or adjacent to the subdivision.
- (f) Location of existing property lines, buildings, drives, streams, water courses, wooded areas and drainage ways.
- (g) Boundary line of adjacent tracts of land or lots showing owners' name.
- (h) Contour at vertical intervals of not more than one (1) feet.
- (i) Location and dimension of any site to be reserved or dedicated for public uses including drainage ways, parks and open spaces.
- (j) Layout of the proposed streets, alleys, crosswalks and easements, showing widths and street names.
- (k) Lay out, number and dimensions of all lots and blocks.
- (l) Parcels of land intended to be dedicated or reserved for public use or set aside for the use of property owners within the subdivision including the park and open space land dedication.
- (m) Building setback lines, showing dimensions.
- (n) Lands along major and minor arterial streets shall include additional right-of way to provide at least one hundred (100) feet of right-of-way measured from the center line of the existing street or from the section line.
- (o) The city may require additional right-of-way for collector and connector streets.

**(3) Preliminary Plat Submission Requirements**

- (a) The subdivider shall apply on appropriate forms provided by the Code Administrator to the Planning Commission at least two (2) weeks prior to its regularly scheduled meeting.
- (b) The subdivider shall submit seven (7) prints of the preliminary plat to the Code Administrator at the time the application is made. The plat shall comply with the provisions of this ordinance.
- (c) The subdivider may submit any instrument and covenant whereby he/she proposes to restrict land use in the subdivision for protecting the proposed development.
- (d) The subdivider shall provide data related to drainage, soil suitability, financing of improvement and other related information.
- (e) If all materials are submitted, the Code Administrator places notice of public hearing in the official city newspaper and sets date and time for public hearing and review by the Planning Commission and the City Council.
- (f) The Code Administrator shall forward a print of the preliminary plat to the Cass County Engineer for coordination for appropriate right-of-way and access if the property is located on Cass County Highways 6, 14 and 17.
- (g) Application fee of \$20 per lot in the preliminary plat

**(4) Development Plan**

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

- (a) Location of existing property lines, buildings, drives, streams, wooded areas and other significant natural features.
- (b) General layout of proposed streets and location of blocks and intended uses.
- (c) Location of open spaces and facilities for public uses.
- (d) Existing and proposed drainage pattern.
- (e) The development plan shall be drawn at a scale of not larger than one inch representing two hundred (200) feet.

- (f) Soil and flood plain data
- (g) The Planning Commission may require other information as a part of the development plan.
- (h) The developer shall include all land under his/her control up to eighty (80) acres in area.

**(5) Preliminary Plat Review Process**

- (a) The Planning Commission, after a public hearing, shall review the preliminary plat and approve the plat out-right or with conditions. The Planning Commission may require additional information before it takes action.
- (b) 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. Preliminary approval of a plat by the Planning Commission 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.
- (c) The Planning Commission may require the subdivider to submit a revised preliminary plat before the subdivider proceeds with the preparation of the final plat.
- (d) Approval of the preliminary plat shall be effective for a period of one (1) year within which a final plat shall be prepared. If the final plat is not submitted within this time period, the Planning Commission may require the subdivider to resubmit the preliminary plat for review and approval.

**17.7.3 Final Plat**

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

**(1) Final Plat Content**

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

- (a) The final plat shall be drawn at a scale of one inch representing one hundred (100) feet.
- (b) Name and location of the subdivision.

- (c) Date, graphic scale and north point.
- (d) Boundary line of the proposed subdivision indicated by a solid heavy line, accurately drawn to scale and showing distances and bearings.
- (e) Location, right-of-way width and names of any existing or proposed streets, alleys, public ways, easement, public drain right-of-way, railroad, utility rights-of-way, parks and other public open spaces and corporate boundaries and section lines within or adjacent to the subdivision.
- (f) Location of existing property lines, buildings, drives, streams, water courses, wooded areas and drainage ways.
- (g) Boundary line of adjacent tracts of land or lots showing owner's name.
- (h) Location and dimension of any site to be reserved or dedicated for public uses including drainage ways, parks and open spaces.
- (i) Layout of the proposed streets, alleys, cross walks and easements, showing widths and street names including additional rights-of-way for arterial and collector streets.
- (j) Lay out, number and dimensions of all lots and blocks.
- (k) Parcels of land intended to be dedicated or reserved for public use within the subdivision.
- (l) Building setback lines, showing dimensions.
- (m) Where required, detailed engineering drawings, cross-sections or profiles of streets, utility lines, catch basins or other installations of improvements as installed.
- (n) A drainage plan including retention area(s) and outlets.
- (o) Certification by registered surveyor to the effect that the plat represents a survey made by him, and that the monuments/pins shown thereon exist as located and that all dimensional and geodetic details are correct.
- (p) 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.
- (q) Appropriate place for signature by the property owner, city officials and Cass County officials.



## **(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.

(a) The subdivider shall submit the final plat to the Code Administrator at least two (2) weeks before the regularly scheduled meeting of the Planning Commission with sufficient time for giving a notice of public hearing.

(b) The final plat shall comply with all provisions of this ordinance and conditions and requirements set forth by the Horace City Council as a part of review and approval of the preliminary plat.

(c) 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.

(d) If all documents and materials submitted, the Code Administrator places the notice(s) of public hearing in the official city newspaper and sets time and dates for review by the Planning Commission.

(e) Application fee of \$20.00 per lot in the final plat

## **(3) Final Plat Review Process**

(a) If the Planning Commission, after a public hearing, 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.

(b) If the Planning Commission finds discrepancies between the presented final plat and conditions placed on the Preliminary Plat, it shall not allow the plat to go forward to the City Council. It shall require the developer to redraw the final plat to meet all conditions and stipulations imposed by the City Council. The Planning Commission shall review the plat for compliance before it forwards its recommendations to the City Council.

(c) For subdivisions outside of the city corporate limits, a print of the final plat shall be submitted to the Cass County Planner. The approval of the County Commission may be necessary for plats outside of the city.

(d) 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.

(e) If all conditions and requirements have been met, the Planning Commission shall recommend approval of the final plat to the City Council.

(f) The City Council, after a public hearing, may approve, deny or modify the final plat.

#### **17.7.4 Lot Splits**

A lot split may be exempt from the platting requirements of this ordinance if the following conditions are met:

##### **(1) Conditions**

(a) That the lot split does not contain more than two lots.

(b) That the two lots conform to the requirement of the respective zoning district for width and area coverage of each lot.

(c) That any lot may be split only once under these provisions.

(d) That the lot split is not part of a continuing practice of lot splitting for a particular area to circumvent platting or re-platting requirements of this ordinance.

(e) A legal description for lot splits is required, unless the meets and bounds could clearly describe each lot.

(f) That the lot split does not violate any provisions of city ordinances, plans, or any other state and local ordinances.

##### **(2) Procedure**

An application for lot split shall be submitted to the Code Administrator. If the Code Administrator determines that conditions are met, he/she shall schedule a review/approval before a board represented by the Chair of Planning Commission, the City Mayor, and the Code Administrator. Written notice if application shall be sent to all property owners within 150 feet of the proposed lot, excluding street rights-of-way and publicly owned properties before the meeting. The board may approve, modify or deny the application for lot split.

##### **(3) Application**

A fee of \$50.00 per lot shall be required for each application.

#### **17.7.5 Transfer of Lots**

No owner, or agent of owner, shall transfer, sell or agree to sell any land before the lot split, re-plat, or plat is approved as provided under the requirements of this ordinance.

### **17.7.6 Amendment of Horace 2028 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 areas 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 Horace 2028 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 Cass County Commission and the respective township.

### **17.7.7 Filing of Subdivision Plat and Lot Split**

The subdivider, upon approval of the final plat or lot split, shall file the plat or lot split with the Cass County Recorder's Office. Sale of any lot prior to filing of the final plat is in violation of this ordinance.

## **17.8 DESIGN STANDARDS**

### **17.8.1 Conformance**

The subdivider shall prepare the preliminary and final plat in conformance with the standard set forth in this ordinance and the current standards carried out by Cass County Highway Department and guidelines of the American Association of State Highway and Transportation Officials (AASHTO).

### **17.8.2 Street Design**

- (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, flood plain, public convenience and safety and the proposed uses of land served by such streets and to the most advantageous development of adjoining uses.
- (2) Where it is not shown on the Horace 2028 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.
- (3) Where a subdivision abuts or contains an existing or proposed major street or highway, the Planning Commission may require: (a) service streets, reverse frontage streets with screen planting in a reservation strip along the rear property line; (b) deep lots with rear service alleys abutting the arterial and collector streets; and (c) additional highway right-of-way as may be necessary for adequate protection of residential properties and for separation of through and local traffic.

(4) Where a subdivision borders on or contains a railroad right-of-way, a limited access highway right-of-way or other arterial highways, 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.

(5) Reserve strips in private ownership controlling access to streets are prohibited. This causes problems for street improvement and widening.

(6) Street jogs with centerline offsets of less than one hundred fifty (150) feet shall not be permitted.

(7) A tangent at least one hundred (100) feet long shall be introduced between reverse curves on all arterial, collector and connector streets.

(8) Streets shall be laid out so as to intersect as nearly as possible at right angles. To create a more attractive environment curvilinear streets are permitted.

(9) Curb radii on all block corners shall be at least twenty (20) feet and a fifteen (15) foot radius shall be used at intersections of streets and alleys.

(10) Street rights-of-way for construction of urban streets shall not be less than the following:

(a) Major arterial streets, one hundred and fifty (150) feet;

(b) Minor arterials and collector streets, one hundred and twenty (120) feet;

(c) Collector and connector streets, one hundred (100) feet.

(d) Local streets, seventy (70) feet.

(e) Cul-de-sac, one hundred (100) feet in diameter for a suitable turnaround;

(f) Alleys, residential district, thirty (30) feet;

(g) Sidewalks, four and one-half (4 1/2) feet and 4" thick for residential areas.

(11) All access points to minor and major arterial streets shall be via street intersection and no private driveways shall be permitted. The total number of access points for minor and major arterial shall be limited to eight (8) per side per mile. An existing driveway access point may be exchanged with a street access.

(12) The highway setback for all arterial and collector streets shall be seventy-five (75) feet.

(13) The highway setback for connector streets shall be fifty (50) feet.

(14) Half streets are prohibited except where essential to the reasonable development of the subdivision and in conformity with the other requirements of this ordinance and where the City Council 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.

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

(16) Intersections of more than two (2) streets at a point less than ninety (90) degrees shall not be permitted.

(17) Dead-end streets shall have a cul-de-sac turnaround.

(18) In Suburban Residence and Residential Estate Districts where streets are built under rural design standards sufficient drainage ditches must be connected either to Sheyenne River or the Cass County Drain 27.

(19) For all other residential districts and commercial/industrial districts storm sewer is required.

(20) All streets shall be constructed in accordance with the guidelines of the American Society of State Highway Officials (AASHTO) and Cass County urban highway standards.

### **17.8.3 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.

(1) Residential block length shall not exceed nine hundred (900) feet. The length of blocks is considered to be the distance from the center line of one street to the center line of a parallel street. In case of a curved street, the block length is measured through the middle of the block to the center line of bordering streets.

(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 City Council to be essential to provide circulation, or access to schools, playgrounds or other community facilities.

(3) The width of blocks shall generally be sufficient to allow two (2) tiers of lots and shall be at least three hundred (300) feet wide. The width is measured from the center line of one street to the center line of the next parallel street.

(4) Blocks intended for commercial and industrial use shall be specifically designated for such purposes with adequate space set aside for off-street parking, loading, unloading and delivery facilities. The City Council may require service drives or frontage roads along major streets for business and industry.

#### **17.8.4 Lot Design**

(1) The shape, size, and orientation of the lots shall be appropriate for the location of the subdivision. For residential single-family a north-south lot orientation is encouraged. Residential lot dimensions within the city corporate limits shall be subject to the provisions of the appropriate zoning districts under Sections 17.5.2 through 17.5.8.

(2) Non-residential lots shall be subject to the provisions of commercial and industrial zoning districts in Sections 17.5.9 through 17.5.13.

(3) Residential lot dimensions within the extra territorial planning area in Agricultural District shall be subject to the provisions of Section 17.5.1.

(4) Residential lots abutting arterial and collector streets shall have extra depth of at least twenty (20) feet.

(5) All lots shall front a public street. Easements, unless with seventy (70) feet of width for distances longer than one hundred and fifty (150) feet, shall not be acceptable as frontage or public street.

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

(7) Lot lines shall follow the city corporate limits.

(8) Double frontage lots shall be avoided except where it is essential to provide separation of development from arterial access streets. (Reverse frontage street)

(9) 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 and development and the provisions of the appropriate zoning district and parking provisions of these regulations.

#### **17.8.5 Street Names**

- (1) The Planning Commission may disapprove 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.
- (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.
- (3) A name or number assigned to a street, which is not presently a through street, shall be continued as a part of a through street.

#### **17.8.6 Utility Easements**

- (1) Easements across lots or along rear or side lot lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide on each side of the lot line and shall be designated as “utility easement”.
- (2) All lots shall be served by underground electric, cable television and telephone lines unless waived by the City Council due to topographic conditions or excessive costs.
- (3) All utility lines for electric power, cable television and telephone service carried overhead shall be placed in utility easement.
- (4) Utility lines installed in the utility easement shall not be closer than three (3) feet to any monument/pin or property line, unless waived by the City Council.

#### **17.8.7 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 based on the recommendations of the City Engineer to accommodate the anticipated discharge from the property being subdivided and also the anticipated run-off from the adjoining properties.

#### **17.8.8 Landscaping**

The planting of trees and shrubs of an appropriate species and at appropriate locations are required in all new plats of subdivisions.

- (1) For residential subdivisions abutting arterial streets, there shall be a buffer area for planting of trees and shrubs to provide a sense of esthetic as well as protection against noise and vibration caused by the moving traffic.
- (2) For non-residential uses abutting the arterial streets, the City Council requires submission of a landscaping plan for each lot as a prerequisite for issuing a building permit.

- (3) For local streets at least one street tree is required for every thirty-five (35) linear feet of street frontage unless interrupted by driveways, street intersection and cross walk.
- (4) For collector and arterial streets at least one tree is required for every fifty (50) linear feet of the street frontage, unless interrupted by street intersection and crosswalk.
- (5) Required street trees shall be installed within ten (10) feet of street right-of-way and away from sidewalks.
- (6) Ornamental deciduous trees are preferred for visual appearance and maintenance.
- (7) A landscaping plan is required for review for all uses including the multi-family residential districts and commercial and industrial districts as a part of the building permit application.
- (8) The perimeter of all parking lots fronting public streets where more than ten (10) parking spaces are designed shall be landscaped to a depth of ten (10) feet. Indigenous plants and annual plants and shrubs are acceptable.

**17.8.9 Street lights**

Street lights, suitable for different uses and street type, and their location shall be in accordance with the minimum standards established by the City Council.

**17.8.10 Dedication of Land for Parks, Playgrounds and Recreation**

All preliminary and final plats shall designate area(s) for park, playground, and recreational facilities. The parcel(s) to be dedicated shall be usable and accessible to the adjoining properties.

- (1) The area of land required for dedication to the city shall be:
  - (a) Ten percent (10%) of the gross area of the residential final plat for single family and multi-family uses.
  - (b) Ten percent (10%) of the gross area of the planned unit development.
  - (c) Five percent (5%) of the gross area of the commercial or industrial final plats.
- (2) Unusable land located in the drainage way and flood plain, wetlands and land(s) difficult to use for park, playground and recreational uses shall not be accepted.



(3) The City of Horace may waive the requirement for land dedication if it finds that the proposed site is too small or unsuitable for developing park, open space, playground or recreational facilities. In lieu of land dedication, the city shall require cash payment per lot for the final plat, the amount of which shall be set by the City Council based on current land value. The fees collected shall be used for purchase of land and development thereof in accordance with the city policies and recommendations of the Horace Park Commission.

(4) The City of Horace may require a combined cash and land as a part of land dedication requirements, where the percentage of land dedicated shall reduce the required cash by equal amount.

(5) The subdivider shall make the payment to the City of Horace upon approval of the final plat as a part of the developer's agreement. Funds received by the city shall be placed in a public improvement fund at the discretion of the City Council. These funds shall be only used for acquisition and development of parks, playgrounds and community recreational facilities and released to the park Commission at its request.

(6) Where private space for park, playground and recreational facilities is provided in a proposed subdivision, such areas may be used, at the discretion of the City Council, for credit to meet the requirement of land dedication as stated above. The City Council must find this alternative suitable to meet the public interest and the needs of the City of Horace. In such cases, the City of Horace shall require an irrevocable covenant to assure the existence and maintenance of the facility in perpetuity.

#### **17.8.11 Excavation**

All excavations shall be conducted in accordance with the requirements of the City of Horace Municipal Ordinances upon recommendation of the City Engineer.

### **17.9 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 type of construction.

#### **17.9.1 Completion Assurance**

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

#### **17.9.2 Survey Monuments/Pins**

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

### **17.9.3 Public Water**

- (1) Where appropriate, water mains shall be installed so as to provide individual service to each lot within the subdivision.
- (2) Water mains shall extend to the boundary of the subdivision, except where in the opinion of the City Council, it is deemed impractical.
- (3) A rural water supply, storage and distribution system shall comply with the requirements of the City of Horace.

### **17.9.4 Sanitary Sewer**

- (1) All subdivisions shall be provided with sanitary sewers to each lot in all zoning districts. Residential districts in S-R Suburban Residence and R-E Residential Estate because of the large lots may be excluded from this requirement.
- (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.
- (3) Sanitary sewer shall not be extended outside city limits unless the area is annexed to Horace.
- (4) All lots in R-1, R-2, R-3, R-4, R-5, C-2-1, C-2, C-3, I-1, I-2 and PUD shall be connected to public sewer.

### **17.9.5 Storm Sewer**

The storm sewer drainage facilities shall be installed in all residential lots in R-1 to R-5, C-1 and C-2 Districts in accordance with the plans and specifications approved by the City Council. S-R Suburban Residence, R-E Residential Estate, C-3 Commercial, I-1 and I-2 Industrial Districts may use ditches, provided that C-3, I-1 and I-2 Districts have retention ponds to be approved by the City Engineer and the City Council subject to land suitability and drainage characteristics.

### **17.9.6 Grading and Drainage**

- (1) The subdivider shall provide a detailed grading and drainage plan showing the grades of streets and drainage improvements. The subdivider shall provide suitable drainage facilities for any surface run-off affecting the

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

- (2) The drainage shall not discharge into any sanitary sewer facility.
- (3) The grading and drainage system shall be approved by the City Engineer in accordance with the plans and policies of the City of Horace.
- (4) Grading established in any subdivision shall not be changed without approval of the City Council.

#### **17.9.7 Curbs, Gutters and Sidewalks**

- (1) Concrete curbs and gutters shall be installed in all subdivisions in R-1, R-2, R-3, R-4, R-5, C-1 and C-2 Districts in accordance with the requirements of the City of Horace Municipal Ordinances.
- (2) Where the city requires construction of sidewalk in R-1, R-2, R-3, R-4, R-5, C-1, C-2 Districts, it shall be in accordance with the requirements of the City of Horace Municipal Ordinances. All driveways shall be constructed according to the requirements of the City of Horace of concrete or asphalt.

#### **17.9.8 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 and documents required for such approval.

### **17.10 ADMINISTRATION AND ENFORCEMENT**

#### **17.10.1 Organization**

To administer this ordinance the following bodies are hereby vested with authority to act in behalf of City of Horace.

The City Code Administrator

The Planning Commission

The Zoning Board of Adjustment

The City Council

#### **17.10.2 City Code Administrator**

The Code Administrator 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 this ordinance.

**(1) Duties**

Issue all zoning certificates, permits and maintain records thereof.

Issue all building and repair permits.

Maintain zoning and platting related records including records of all amendments, conditional uses, variances and amendments to Horace 2028 Comprehensive Plan.

Receive, file and forward in behalf of the City Council to the Planning Commission all applications for rezoning, site approvals and conditional uses.

Receive, file and forward all variance related applications to the Board of Adjustment.

Prepare and publish notices and notify adjoining property owners. For all applications pertaining to zoning district changes, conditional uses and variances. A written notice shall be mailed to all property owners within three hundred (300) feet of the subject land. This distance shall not include the public lands such as parkland; street right-of-way and any land owned by the city, county, state and federal government.

Notify, in writing, the property owner or user upon finding violation of this ordinance and cite the nature of violation clearly, require compliance and a submitted report of the findings to the City Council and the City Attorney.

Receive, file and forward to the Planning Commission and the City Engineer all applications for preliminary and final plats and the supporting documents.

Receive, file and forward all requests for variances to the City Council, if it acts as a Board of Adjustment.

Report all zoning and land subdivision violations to the City Council and the City Attorney.

All data and information required in application for zoning changes, conditional use permits, variances, preliminary and final plats shall be submitted to the Code Administrator before the notice of the public hearing is published. Failure to submit the required data and information at least two (2) weeks before the public hearing or regular meetings to be held by the Planning Commission or the City Council, shall result in delaying the action of the Planning Commission or the City Council.

The Code Administrator shall require appropriate data and information from the applicant requested by the City Engineer, other city agencies, the Planning Commission and the City Council.

The Code Administrator may develop a timetable for processing of each application for consideration by the Planning Commission and the City Council.

**(2) Interpretation of Regulations**

All questions of interpretation of this ordinance shall be presented to the City Council, if the interpretation of the Code Administrator is questioned.

**(3) Building Permit Applications**

Any person or persons intending to construct 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 Code Administrator. These provisions shall also apply to manufactured and modular homes.

(a) 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 (foot print) of the building for observing the yard requirements of this ordinance.

(b) 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.

(c) The application must accompany a site plan for multi-family residential, commercial and industrial districts.

**(4) Building Permits**

The Code Administrator shall issue a building permit if the proposed building or structure conforms to zoning and building provision of this ordinance. If the Code Administrator denies a permit because of nonconformance with this ordinance, he/she shall inform the applicant of his/her right to request to the Board of Adjustment for a variance for dimensional restrictions.

**(5) Application and Permit Fees**

The Code Administrator shall charge and collect a fee for zoning applications, conditional use permits, variances, and preliminary and final plats in accordance with the fee schedule established by the City Council. These fees shall be

sufficient in amount to cover the cost of notices and the time spent by the Code Administrator on each case. Updating the fee schedule must be done by an action of the City Council at any regular meeting.

**(6) Certificate of Occupancy or Use**

The Code Administrator shall inspect the completed building, including placement of manufactured and modular homes and assurance that all provisions and conditions set forth under this ordinance are met. In the event the Code Administrator finds violations and deviations from the terms and conditions of this ordinance, he/she shall make a report and recommendation for action to the City Council and the City Attorney.

**(7) Conditional Uses and Site Approval Permits**

The Code 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 17.11.

**(8) Variances**

The Code Administrator shall issue a permit if the Board of Adjustment approves the variance. The terms of the variance shall be stipulated in the permit, subject to the provisions of Section 17.11.

**(9) The Final Plat**

The Code Administrator shall place the final plat for the Mayor's signature, if the City Council has approved the final plat subject to the provisions of Sections 17.7, 17.8 and 17.9 of this ordinance.

**17.10.3 Planning Commission**

The Planning Commission shall consist of at least five members appointed by the City Council. The Code Administrator may act as the secretary of the Planning Commission. A representative of the extraterritorial area, appointed by the Cass County Planning Commission, shall serve on the Planning Commission as a voting member. The Planning Commission shall appoint its chair and vice-chair annually. In case of vacancies the City Council shall appoint new members to complete the unfinished term of a former member.

**(1) Duties**

**(a)** To hear and act on all applications for amendments to zoning districts, Land Use Ordinance, preliminary and final plats of subdivisions and take action for approval, denial or approval with modification and final recommendations to the City Council.

(b) To hear and act on all applications for conditional uses and site approvals in the manner prescribed in this ordinance and make recommendations to the City Council.

(c) The action of the Planning Commission is advisory to the City Council and all final decisions rest with the City Council.

**(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 preliminary and final plat applications and other matters before it, give public notice thereof 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 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 Code Administrator. The Planning Commission may authorize the Code Administrator to place notices and communicate its decisions with the City Council and other city officials.

**(3) Meetings**

Meetings 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.

**17.10.4 Board of Adjustment**

The Board of Adjustment shall consist of five members appointed by the City Council. The Board of Adjustment shall elect its chair and vice-chair annually. The Code Administrator shall serve as the secretary of the Board of Adjustment. In case of vacancies the City Council shall appoint a new member to complete the unfinished term of a former member

**(1) Duties**

To hear and decide petition(s) variance from the terms of this ordinance and decision of the Code Administrator that shall not be contrary to the public interest. The Board of Adjustment shall only deal with dimensional variances and not use variances. The decision of the Board of Adjustment is final. An appeal from the decision of the Board of Adjustment may be made to the City Council. The applicant may be a citizen, the Code Administrator or a member of the Board of Adjustment. In such an event, the City Council has the authority to overrule the Board of Adjustment, if it disagrees with the decision.

**(2) Notice of Hearing**

The 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 Code Administrator.

**(3) Permit**

The favorable decision of the Board of Adjustment, would require the Code Administrator to issue a permit, unless the decision is appealed to the City Council.

**17.10.5 City Council**

The City Council maintains the authority for review, and acts on the recommendations of the Code Administrator, City Engineer and the Planning Commission.

**(1) Duties**

(a) The City Council is responsible for approval, modification or denial of amendments to the text of this ordinance.

(b) The City Council is responsible for approval, modification or denial of amendments to change the zoning district(s) boundaries.

(c) The City Council is responsible for granting conditional use permits, final plat approval and establishing a fee schedule for all permits issued by the Code Administrator to cover the cost of notices of public hearing and staff time on the projects.

(d) The City Council may act as the Zoning Board of Adjustment

**(2) Notice of Hearing**

The City Council may hold hearing(s) as required by this ordinance and the laws of the State of North Dakota.

**17.11 PROCEDURES FOR AMENDMENTS, CONDITIONAL USES, PUD, VARIANCES AND PLATS OF SUBDIVISION**

**17.11.1 Zoning District Amendments and PUD**

**(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 city. The notice of hearing shall include: (a) the time and place of hearing for the Planning Commission and the City Council (b) description of the property by street address for platted lands and clearly identifiable location for the un-platted lands; (c) the proposed use, requested zoning district change; (d) time and place for public inspection of the documents submitted by the applicant before the hearing; and (e) notification to all property owners within 150 feet of the property in question excluding the street rights-of-way.

**(2) Public Hearings**

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.

**(3) Data Submission Requirements**

Petitions for zoning district change, conditional uses, PUD project, preliminary and final plats and site plan approval shall be submitted to the Code Administrator with the following information:

- (a) Legal description of the area proposed to be rezoned.
- (b) A site plan showing buildings and uses in the zoning district proposed to be changed.
- (c) Information on drainage, floodplain, water, sewer, access to public streets and a schedule for construction.
- (d) A fee shall be paid in accordance with the schedule established by the City Council and other application fees required in this ordinance.

**(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.

**(5) Action of the City Council**

The City Council shall hold a public hearing and act on the recommendations of the Planning Commission. The City Council may approve the recommendations of the Planning Commission on all matters related to zoning district changes,

ordinance amendments, conditional use permits, PUD projects, final plats and site plans.

### **17.11.2 Conditional Use Permits**

#### **(1) Purpose**

The development of this ordinance 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.

#### **(2) Public Hearing Notice**

Public hearing notices and details shall be the same as the provisions set forth for public hearing notice for zoning district amendment in Section 17.11.1(1).

#### **(3) Public Hearings**

Shall be the same as the provisions set forth for public hearing for zoning district amendment in Section 17.11.1(2).

#### **(4) Data Submission Requirements**

Shall be the same as the provisions set forth for data submission requirements for zoning district amendment in Section 17.11.1(3).

#### **(5) Deliberation and Decision**

Shall be the same as the provisions set forth for deliberation and decision for zoning district amendment in Section 17.11.1(4).

#### **(6) Standards**

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

- (a) 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 of the citizens of Horace.
- (b) 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.
- (c) 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.
- (d) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- (e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic impact on the area.
- (f) That the conditional use shall conform to all applicable regulations of the district in which it is located.

**(7) Conditions and Guarantees**

- (a) 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 17.11.2(6).
- (b) No alteration of conditional uses shall be permitted unless approved by the City Council

**17.11.3 Variances**

Variance from the dimensional standards of this ordinance may be granted provided that the applicant establishes proof of practical difficulty or undue hardship. Use variances shall be prohibited and variances be limited to height, bulk, setback line of the buildings and structures.

**(1) Public Hearing Notice**

The Board of Adjustment shall hold a public hearing, which shall be published at least once a week for two weeks prior to the hearing in the official newspaper of the city. The notice of hearing shall include: (a) the time and place of hearing; (b) description of the property by street address for platted lands and clearly

identifiable location for the un-platted lands; (c) the proposed use and zoning district in which the property is located; (d) time and place for public inspection of the documents before the hearing.

**(2) Public Hearings**

Public hearings shall be held by the Board of Adjustment to hear the applicant and the citizens surrounding the property. A notice of public hearing shall be published at least once a week for two weeks prior to the hearing. Subject to the provisions of Section 17.11.1(1).

**(3) Data Submission Requirements**

Petitions for variances shall be submitted with the following information.

- (a) Legal description of the property.
- (b) A map showing the existing land uses and zoning district classification of the area.
- (c) The reason for the variance request.
- (d) A proof of whether the hardship is unique to the applicant's property.
- (e) Any other information that the Board of Adjustment deems necessary.

**(4) Deliberation and Decision**

In making its finding, the Board of Adjustment shall ascertain that the requests for variance is consistent with the Horace 2028 Comprehensive Plan and meets all requirements of this ordinance and other regulations of the City of Horace.

**(5) Standards**

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

- (a) 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.
- (b) That literal interpretation of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.

(c) That the special conditions and circumstances have not resulted from actions of the applicant.

(d) That granting the variance requested will not confer upon the applicant any special privileges that are denied by this ordinance to other premises

**(6) Justification**

(a) That the reasons set forth in the application justify the granting of the variance.

(b) The variance is the minimum which would make possible a reasonable use of the premises.

(c) That the granting of variance will be in harmony with the general purpose of this ordinance and will not be injurious to the surrounding premises, neighborhood or the city and will not be contrary to the Horace 2028 Comprehensive Plan and the purposes of this ordinance.

(d) That there is practical difficulty or unnecessary hardship in use of the premises if the strict application of the regulations are to be carried out.

**(7) Appeal**

The decision of the Board of Adjustment may be appealed to the City Council. The City Council after a public hearing subject to the provision of Section 17.11.1 shall determine to confirm or reject the decision of the Board of Adjustment. The decision of the City Council may be appealed to Cass county District Court under the laws of North Dakota.

**17.11.4 Plat Approval**

The procedure for approval of the preliminary and final plats shall be the same as the zoning district amendment procedure under Section 17.11.1 with the required data submission under Sections 17.7.1(3) for preliminary plats, Section 17.7.3 (2) final plats and Section 17.7.4, lot splits.

**17.12 CITIZENS PROTEST**

If a protest to amendments, conditional use permits, variances and subdivision plats is signed by owners of 20% or more of the area of the lots included in such proposed change, or of the area adjacent, extending one hundred and fifty (150) feet 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. For variance, a three-four (3/4) vote of the Board of Adjustment is required.

**17.13 VIOLATIONS AND PENALTIES**

Anyone who violates the provisions of this ordinance or fails to comply with any of its requirements, upon conviction, shall be punished by a fine of no more than \$500.00 per day. Each day that a violation continues shall constitute a separate offense.

**17.14 ENACTMENT**

In order that all development, buildings and structures within the City of Horace and its extra territorial planning and zoning area, be properly guided in accordance with the requirements set forth herein, this Land Use Ordinance is hereby adopted.

\_\_\_\_\_  
John Goerger, Mayor  
City of Horace

\_\_\_\_\_  
Date of Adoption

\_\_\_\_\_  
Vance Kemmer, City Auditor  
City of Horace

\_\_\_\_\_  
Effective Date