

# **City of Wishek Ordinances**

## **Chapter 6**

**ZONING ORDINANCE  
WISHEK, NORTH DAKOTA**

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**RESOLUTION ESTABLISHING BUILDING PERMITS**

## **6.00 INTRODUCTION**

### **6.01 Title**

This ordinance shall be known, and may be cited and referred to as, the Wishek Zoning Ordinance.

### **6.02 Authority**

This ordinance is adopted under the authority granted by Chapter 40-47 of the North Dakota Century Code.

### **6.03 Purpose**

- 6.03.1** To protect public health, safety, morals, comfort, convenience, prosperity and general welfare of the City of Wishek, North Dakota.
- 6.03.2** To secure safety from fire, panic, noxious fumes, and other dangers.
- 6.03.3** To facilitate the adequate provisions for transportation, water, sewerage and other customary municipal government services.
- 6.03.4** To promote orderly development of land and water resources and to prevent conflict among land uses and structures.
- 6.03.5** To Carry out the goals, objectives and policies of the Wishek Comprehensive Plan.
- 6.03.6** To regulate the following locational and spatial needs of Wishek:
  - 6.03.61** Community facilities,
  - 6.03.62** Economic development areas,
  - 6.03.63** Bulk, height and coverage of structures, and
  - 6.03.64** Residential, commercial and industrial areas.

### **6.04 Jurisdiction**

This ordinance shall apply to the use and enjoyment of all lands within the City of Wishek, North Dakota and one mile outside of the corporate limits of the city known as extraterritorial planning area, as provided by chapter 40-47 of North Dakota Century Code. The extraterritorial planning area is defined by any quarter section of land in the unincorporated territory, the majority of which is located within one mile of the city limits in any direction.

### **6.05 Interpretation**

This ordinance shall be held to be minimum requirements adopted for promotion of purposes cited in Section 6.03. Whenever, the requirements of this ordinance are at variance with the requirements of other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive shall govern unless otherwise specifically stated.

### **6.06 Severability**

If any part, provision or portion of this ordinance is adjudged invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

### **6.07 Repeal**

The existing City Zoning Ordinance and Chapter 6 of the Revised Ordinances of 1987 building code, together with any amendments thereto are hereby repealed.

### **6.08 Effective Date**

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

## **6.10 DEFINITIONS AND INTERPRETATIONS**

### **6.11 Compliance**

No structure shall be hereafter used and no structure or part thereof shall be hereafter located, erected, moved, reconstructed, extended, enlarged or converted without a zoning permit and shall be in compliance with the provisions of this ordinance.

### **6.12 Word Use**

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

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

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

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

**6.12.4** May is a permissive word.

### **6.13 Definitions**

**6.13.1 Accessory Building and Uses** means a subordinate building or

portion of the main building the use of which is clearly incidental to and serves exclusively the principal building or principal use. The accessory building or use shall be located on the same zoning lot and it is established to contribute to the comfort, convenience or necessity of occupants of the principal building or principal use.

- 6.13.2 Agriculture** means the process of producing food and fiber including the raising of livestock, intended to be sold for consumption, but not including vegetable garden, but not limited to the land and buildings for operation and maintenance thereof. A vegetable garden shall mean a garden for raising vegetables, and also an orchard or vineyard for raising fruit.
- 6.13.3 Airport** means any area designated for the landing and take off of aircraft and any appurtenant areas which are used or intended for use for airport buildings and structures including runways, taxi ways, aircraft storage and tie down areas, hangars and other related facilities and open spaces other than landing strips used for family purposes.
- 6.13.4 Animal Hospital or Kennel** means a building or premises set up for treatment and boarding of domestic animals including veterinary facilities.
- 6.13.5 Apartment** means a room or suite of rooms in a multiple dwelling used for human occupancy.
- 6.13.6 Basement** means a story partly underground with more than one-half of its height below grade.
- 6.13.7 Bed and Breakfast Inn** means a house, or portion thereof, where short-term lodging and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.
- 6.13.8 Building** means any structure designed or intended for shelter, housing, business, office, and accommodation of persons, animals, chattels or property.
- 6.13.9 Building Area** means that portion of the zoning lot that can be

occupied by the principal use, excluding the front, rear and side yards.

- 6.13.10 Building Height** means vertical distance from the grade to the highest point of the roof.
- 6.13.11 Building Line** means a line establishing the minimum distance that structures may be placed from the lot lines or street right-of-way. For the purposes of this ordinance the building line is the same as setback line.
- 6.13.12 Building Principal** means a building, the principal use of which is single family and multi-family dwellings, and office, shops, stores and other buildings and uses.
- 6.13.13 Channel** means a natural or man-made water course for conducting the flowing water.
- 6.13.14 City Wishek** means City of Wishek, North Dakota.
- 6.13.15 City Council** means the City Council of Wishek, North Dakota, a legally constituted body under North Dakota laws.
- 6.13.16 Club or Lodge** means a private club or lodge which is a non-profit association of persons for the purpose of gatherings and entertaining members including consumption of food and beverages.
- 6.13.17 Commission** means Planning Commission of the City of Wishek, North Dakota.
- 6.13.18 Comprehensive Plan or Development Guide** means a guide for management of the physical resources and development of the City of Wishek.
- 6.13.19 Conditional Use** means use of a special nature not automatically permitted in a zoning district and which requires review and approval of the Planning Commission and City Council after a public hearing subject to the provisions of Section 6.72.
- 6.13.20 Conforming Building or Structure** means a building or structure which complies with all requirements of this ordinance and other regulations adopted by the City Council.

- 6.13.21**      **Development** means any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings, structures or accessory structures, the construction of additions or alternations to buildings or structures, ditching, lagooning, dredging, filling, grading, paving, excavation and drilling operations.
- 6.13.22**      **District** means a section or sections of the City of Wishek for which regulations governing the use of building and premises, the building heights, size of yards, lot area, lot width and the use are uniform.
- 6.13.23**      **Dwelling** means any building or portion thereof, used exclusively for human habitation including single family and multiple family units but not including hotels or motels.
- 6.13.24**      **Dwelling, Detached** means a single-family residence surrounded by open space on the same lot.
- 6.13.25**      **Dwelling, Multiple Family** means a single building or portion thereof, containing two (2) or more dwelling units.
- 6.13.26**      **Dwelling, Single Family** means a building containing one dwelling unit only.
- 6.13.27**      **Dwelling, Two Family** means a building containing two (2) dwelling units only.
- 6.13.28**      **Encroachment** means any fill, building, structure or use including accessory uses projecting into the required yard areas or public and private property.
- 6.13.29**      **Establishment** means a place of business for processing, production, assembly, sales, service of goods and materials.
- 6.13.30**      **Family** means a single individual, doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage or other domestic bond as distinguished from a group occupying a board house, lodging house,



club, fraternity or hotel.

- 6.13.31 Flood plain** means an area which may be covered by floodwater including but not limited to regional floods.
- 6.13.32 Flood way** means the channel of a river and the adjacent land areas that must be preserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- 6.13.33 Floor Area** means the total square footage of floor space within the exterior walls of a building.
- 6.13.34 Frontage** means the front part of a lot abutting a public right-of-way, street or highway.
- 6.13.35 Garage, Private** means an accessory building or portion of a principal building designed and used for storage of personal vehicles and crafts.
- 6.13.36 Garage, Public** means a building or portion thereof, designed and used for repair, maintenance, sale service and storage of motor vehicles and crafts.
- 6.13.37 Grade** means the land elevation at the horizontal intersection of the ground and the building.
- 6.13.38 Home Occupation** means any occupation carried on in a dwelling unit by a member or members of the family and which meets these requirements:
1. That the occupation is conducted within the principal building and not in an accessory building;
  2. That no stock-in-trade is kept or commodities sold other than those produced on the premises;
  3. That no more than twenty five percent (25%) of the floor area of the dwelling is devoted to such home occupation;
  4. That there is no outside storage of equipment and not more than two additional persons outside the family are engaged in such occupation.
- 6.13.39 Hotel or Motel** means a building in which lodging accommodations,

with or without meals, are provided for compensation.

- 6.13.40 Junk or Salvage Yard** means an open area where waste or scrap material, including parts of used motor vehicles, appliances and farm implements are bought, sold, exchanged, stored, baled, parked, disassembled or handled.
- 6.13.41 Kennel, Animal** means any premises where dogs, cats and other household pets are boarded, bred and maintained for compensation.
- 6.13.42 Lodging House** means a residential building or portion thereof which accommodates three or more unrelated persons with meal privileges.
- 6.13.43 Lot** means a piece, parcel, lot or area of land of continuous assemblage established by survey, plat or deed.
- 6.13.44 Lot Area** means the ground area within the lot lines.
- 6.13.45 Lot, Corner** means a lot abutting two public streets at their intersection.
- 6.13.46 Lot, Depth** means the average horizontal distance between the front lot line and the rear lot line.
- 6.13.47 Lot, Double Frontage** means a lot having frontage on two separate public streets.
- 6.13.48 Lot, Interior** means a lot located in the interior of a block and not a corner lot.
- 6.13.49 Lot Lines** means the property lines bounding the lot.
- 6.13.50 Lot Width** means the horizontal distance between the side lot lines of a lot measured at the front building setback line.
- 6.13.51 Lot, Zoning** means a single lot, parcel, tract of land within a zoning district developed or to be developed.
- 6.13.52 Manufactured Home** means a single family detached housing unit that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974.
- 6.13.53 Mobile Home** means a manufactured trailer, or dwelling unit intended for family residential occupancy.

- 6.13.54 Mobile Home Lot** means a lot or parcel of land platted or planned to accommodate a mobile home.
- 6.13.55 Mobile Home Park** means a parcel of land for which a detailed plan indicating the location of lots, blocks, streets, facilities and utilities exists subject to the requirements of Section 6.43.
- 6.13.56 Non-conforming Building** means any building which does not comply with any or all parts of this ordinance.
- 6.13.57 Non-conforming Use** means any principal use of land or building which does not comply with any or all parts of this ordinance.
- 6.13.58 Nursing Home or Convalescent Home** means a home for the aged or infirm in which unrelated persons are accommodated for compensation.
- 6.13.59 Parking, Off-street** means one or more spaces set aside on private land, with direct access from street or alley not less than nine (9) feet wide and twenty (20) feet long, exclusive of passage ways.
- 6.13.60 Permitted Uses** means those uses, buildings or structures which comply with the provisions of specific zoning districts because of the similarities in nature and relationship to each other. Permitted uses are distinct from conditional uses that are authorized only if certain requirements of these provisions are met after a public hearing and approval by the Planning Commission and the City Council.
- 6.13.61 Person** means any individual, firm, corporation, partnership or legal entity.
- 6.13.62 Planned Development** means a grouping of buildings and structures on a site of three (3) or more acres in single ownership which is not limited by the yard or building height limitations but is based on a detailed development plan and recorded with the McIntosh County Register of Deeds upon approval by the City Council.
- 6.13.63 Public Roadway or Public Way** means any dedicated and recorded right-of-way including alleys, sidewalks, street, roads or highways.

- 6.13.64 Regional Flood** means a flood determined by the state and Federal Emergency Management Agency which is representative of large floods known to have occurred in McIntosh County, North Dakota.
- 6.13.65 Service Station** means any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to the motorist.
- 6.13.66 Sign** means any emblem, name, identification, description or illustration which is used for outdoor advertising having permanent location on the ground or attached to or painted on a building including bulletin boards, billboards and poster boards, but excluding real estate for sale signs, political campaign signs, public information and traffic signs.
- 6.13.67 Site Plan** means a detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in this ordinance.
- 6.13.68 Street** means a public or private right-of-way which affords the principal means of access to abutting property.
- 6.13.69 Structural Alterations** means any change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls and embankment.
- 6.13.70 Structure** means anything constructed or erected, the use of which requires permanent location on the ground including advertising signs and billboards.
- 6.13.71 Variance** means the relaxation of the terms of the ordinance in relationship to building height, size of the front, rear and side yards, where the literal enforcement of this ordinance could create unreasonable hardship, but it is not contrary to the purposes of the Wishek Comprehensive Plan (Development Guide) and this ordinance.
- 6.13.72 Yard** means an open space on the zoning lot which is unoccupied or

unobstructed by any portion of a structure from the ground upward.

**6.13.73 Yard, Front** means an open space extending across the front of the lot between the side lot lines and extending from the front lot line to the front of the principal building or any projection thereof.

**6.13.74 Yard, Rear** means an open space extending across the rear of the lot between the side lot lines and extending from the rear lot line to the rear of the principal building or any projection thereof.

**6.13.75 Yard, Side** means an open space extending along a side lot line from the front lot line to the rear lot line extending from the side lot line to the side of the principal building or any projection thereof.

## **6.20 GENERAL PROVISIONS**

### **6.21 Amendments**

The City Council may, from time to time, amend, supplement or repeal any part of this ordinance after a public notice and hearing.

### **6.22 Comprehensive Plan (Development Guide)**

This ordinance is administered and enforced to implement the City Comprehensive Plan (Development Guide); a document adopted by the City Council on August 6, 2001 and is on file at the auditor's office.

### **6.23 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 Planning Commission may require information and data to determine the land suitability. The commission may consult with county and state agencies to assist in its determination.

### **6.24 Conditionally Permitted 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 of Section 6.52 of this ordinance.

## **6.30 ZONING DISTRICT BOUNDARIES AND MAPS**

### **6.31 Zoning Districts**

In order to carry out the purposes and provisions of this ordinance, the following zoning districts are hereby established.

- 6.41            A-1    Agricultural District**
- 6.42            R-1    Residential District**
- 6.43            R-3    Trailer Court District**
- 6.44            C-1    Commercial District**
- 6.45            I-1    Industrial District**
- 6.46            P-1    Public District**

### **6.32 Zoning District Map**

#### **6.32.1 Zoning Districts**

The location and boundaries of the zoning districts are hereby established as shown on the Zoning Map@ dated July 2000, on file in the Office of the City Auditor. The zoning maps, together with all information shown thereon and all amendments thereto, shall be an integral part of this ordinance.

#### **6.32.2 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 of extension thereof unless clearly shown to the contrary.

#### **6.32.3 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.

#### **6.32.4 District Description for Unsubdivided Lands**

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

### **6.32.5 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 of public way.

### **6.32.6 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.

### **6.32.7 Annexation of Land**

Any newly annexed area shall be placed in A-1 agricultural district, unless the area is targeted and schedules for development in which case the area shall be placed in the appropriate zoning district subject to the zoning district changes and zoning district amendments provided in this ordinance.

### **6.32.8 Certification**

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

## **6.40 ZONING DISTRICT REGULATIONS**

### **6.41 A-1 Agricultural District**

#### **6.41.1 Purpose**

The purpose of this district is to provide for preservation and protection of agricultural uses while in existence in the city. The A-1 agricultural district is to serve as an interim zone for change to an appropriate zoning district as the land becomes feasible for development.

#### **6.41.2 Permitted Uses**

1. Accessory buildings and structures.
2. Agricultural uses.
3. Churches and cemeteries.
4. Golf courses and parks and play fields.
5. Home occupations.

6. Public and private schools, public buildings and facilities.
7. Stock piling of sand and gravel for road construction and maintenance.
8. Utility lines and pipelines including substations for transformers, pumping stations and lift stations.
9. Single-Family dwellings
10. Greenhouses and/or garden center
11. Flood control and watershed structures

#### **6.41.3 Conditional Uses**

1. Non-farm residential use.
2. High voltage transmission lines and accessory structures.
3. Manufacturing and processing of agricultural products produced in the area but not including rendering plants and fertilizer plants
4. Radio, TV stations and towers.
5. Sale and services of agricultural equipment and machinery.
6. Salvage and junk yards subject to provisions of section 6.59
7. Sanitary landfills subject to the provisions of Section 6.58
8. Sewage lagoons and waste water treatment facilities.
9. Skeet, trap and rifle ranges if not nearer than one thousand (1000) feet from any residence.
10. Storage of farm related chemicals.
11. Veterinary clinics, animal hospitals and domestic animal kennels not nearer than five hundred (500) feet from any residence except the residence of the owner or operator.
12. Mining of sand and gravel subject to provisions of Section 6.57.
13. Construction and maintenance of drainage systems to manage the water run-off and water reservoirs.
14. Construction and maintenance of livestock/ag waste systems.
15. Vegetable Gardens
16. Harboring riding horses, provided the number of horses harbored



shall not exceed one horse per acre.

#### **6.41.4 Lot Area and Lot Width**

1. For agricultural uses the area shall not be less than ten (10) acres.
2. For non-farm residential uses the lot area shall not be less than two (2) acres.
3. For non-residential uses the lot area shall not be less than three (3) acres.
4. The lot width for any use in agricultural district shall not be less than two hundred fifty (250) feet.

#### **6.41.5 Yard Requirements**

1. The minimum front yard, measured from the front lot line, shall not be less than fifty (50) feet.
2. The minimum rear yard, measured from the rear lot line, shall not be less than thirty (30) feet.
3. The minimum side yard, measured from the side lot line, shall not be less than ten (10) feet.

#### **6.41.6 Building Height**

1. The building height shall not exceed two and one half stories or thirty five (35) feet except for church steeples and communication structures.
2. The building heights for agriculturally related uses shall be determined by the Planning Commission.

#### **6.41.7 Parking Requirements**

For non-farm uses, the provisions of Section 6.53 shall apply.

#### **6.41.8 Sign Requirements**

Sign requirements shall be subject to the provisions of Section 6.54.

### **6.42 R-1 Residential District**

#### **6.42.1 Purpose**

The residential district is primarily established to promote a suitable residential environment and to accommodate single and multi-family density residential uses largely consisting of single and multi-family dwelling units.

**6.42.2 Permitted Uses**

1. Single family detached and two family dwelling units.
2. Multi-family dwelling units.
3. Condominium and attached single-family dwelling units.
4. Manufactured homes installed on permanent foundations or basements.
5. Churches, schools and day care facilities.
6. Home occupation.
  
7. Accessory buildings and structures.  
No accessory building may be constructed on an empty lot, unless it's adjacent to owner's lot with a family dwelling on the lot.
8. Parks, playgrounds, golf courses and open spaces.
9. Hospitals, medical clinics, convalescent homes.
10. Electric power production and substations.
11. Public utility buildings including water and wastewater facilities and accessories.

**6.42.3 Conditional Uses**

1. Bed and breakfast establishments.
2. Public and private utilities and structures including waste water treatment facilities, sewage lagoons, overhead and underground wires and pipelines.

**6.42.4** Mobile home parks are subject to the following requirements:

1. A site plan showing location of streets, utilities, off-street parking, driveways, walkways, blocks, lots, playground and park area.

2. The mobile home park shall contain a minimum of three (3) acres of land.
3. Each mobile home shall be placed on a lot at least fifty (50) feet wide with a minimum area of five thousand (5,000) square feet.
4. Each unit shall be placed on a permanent foundation.
5. Each unit shall have a minimum setback of twenty (20) feet within the parks and thirty (30) feet from the public streets.
6. Each unit shall have a minimum side yard of ten (10) feet and a rear yard of twenty (20) feet.
7. The design and construction of the private streets within the park shall conform to the design standards used by the City of Wishek.
8. All units shall be served by underground utilities unless waived by the Planning Commission.
9. There shall be two (2) off-street parking spaces per unit.

**6.42.5 Lot Area and Lot Width**

**6.42.5.1** The minimum lot area in residential district for residential uses shall be:

1. Seven thousand (7,000) square feet for single family units;
2. Ten Thousand Five Hundred (10,500) square feet for two family units; and
3. Twenty Five Thousand (25,000) square feet for each multi-family unit excluding the yard requirements.

**6.42.5.2** For non-residential uses, the minimum lot area shall be twenty thousand (20,000) square feet.

**6.42.5.3** The minimum lot width in residential district shall be:

1. Fifty (50) feet for single family units;
2. Seventy five (75) feet for two (2) family units;
3. One hundred fifty (100) feet for Triplex units; and
4. One hundred fifty (150) feet for family units containing 4 or more units and;
5. One hundred (100) feet for non-residential uses.
6. Depending on location, planning commission may allow building use.

**6.42.6 Yard Requirements**

1. The minimum front yard, measured from the front lot line, shall not be less than fifteen (15) feet for single family, multi-family uses and non-residential uses.
2. The minimum rear yard, measured from the rear lot line, shall not be less than twenty (20) feet.
3. The minimum side yard, measured from the side lot line, shall not be less than eight (8) feet on each side.

**6.42.7 Existing Side yard Requirements**

1. It is provided however, that should a home owner desire to add on to an existing principal building which was in place prior to June 17, 2002 then the minimum side yard for the new construction shall be four (4) feet, or the same width as the existing side yard, whichever is greater. No variance shall be granted to the provisions of this paragraph.

**6.42.8 Building Height**

1. No residential building shall be more than two and one half (2 1/2) stores or thirty five (35) feet high.
2. Non-residential building height shall not exceed four (4) stories or forty five (45) feet excepting church

steeple and communication antennas.

**6.42.9 Parking Requirements**

1. There shall be a minimum of one (1) off-street parking spaced provided for each residential dwelling unit.
2. For the non-residential uses the provisions of Section 6.53 shall apply.

**6.42.10 Residential Foundation Requirements**

1. The base for all foundations for single family or multiple family dwellings shall consist of cement footing measuring a minimum of 18 inches wide by 8 inches deep which shall run the full length and wide of the dwelling it is to support. The bottom of the cement footing shall be placed a minimum of 48 inches below the ground level. The cement footing shall consist of a minimum 5 bag mix, and shall contain a minimum of 2 courses of one half (1/2) inch and (#4) rebar placed, tied and secured within three (3) inches of the bottom of the footing. Any walls constructed upon the reinforced cement footing, if constructed of wood rather than of cement block or concrete walls, shall be constructed using all weather wood foundation point sixty (.60) treated wood for permanent ground contact. This treated wood shall be used for all base plates, uprights, and plywood sheathing.

**6.42.11 Sign Requirements**

1. There shall be no more than one identification sign per residential dwelling structure exceeding twelve (12) square feet in area. The sign may be wall, pedestal, ground or projecting type but it shall not project into the public right-of-way or public property.

2. One sign per lot or complex for identifying apartment buildings or condominiums, such signs not to exceed twelve (12) square feet in area.
3. One temporary signs such as “For Sale” or “For Rent” not exceeding six square feet in size.
4. Other temporary signs such as political campaign signs, greeting signs, or rally signs.
5. No other sign such as a hospital sign, church sign, school sign, or similar sign shall be erected in the residential district without first getting a permit from the planning commission.
6. The planning commission in its sole discretion decide on the size and the location of such a sign.

## **6.43 R-2 Trailer Court District**

### **6.43.1 Purpose**

The trailer court district is primarily established to promote a suitable residential environment and to accommodate trailer homes in a trailer court environment.

### **6.43.2 Permitted Uses**

1. Mobile home parks
2. Multi-family dwelling units
3. Single family detached and two family dwelling units
4. Parks, playgrounds and open spaces
5. Accessory buildings and structures
6. Day Care facilities subject to the requirements of the State of North Dakota.

### **6.43.3 Conditional Uses**

**None**

### **6.43.4 Lot Area and Lot Width**

1. The mobile home park shall contain a minimum of three acres of land for all other lot sizes refer to residential descriptions

2. Each mobile home shall place on a lot at least fifty (50) feet wide with a minimum area of five thousand (5000) square feet for lot widths of residential see previous description

**6.43.5 Yard Requirements**

1. Each unit shall have a minimum set back of fifteen (15) feet within the park and thirty (30) feet from the public streets
  2. Each unit shall have a minimum side yard of ten (10) feet and a rear yard of twenty (20) feet

**6.43.6 Building Height**

1. No residential building shall be more than two and one half (2 1/2) stories or thirty-five (35) feet high
2. Non-residential building height shall not exceed two and one half (2 1/2) stories or thirty-five (35) feet excepting church stables and communication antennas

**6.43.7 Parking Requirements**

1. There shall be one (1) off-street parking space per unit

**6.43.8 Sign Requirements**

1. There shall be no more than one identification sign per residential dwelling structure exceeding twelve (12) square feet area. The sign may be wall, pedestal, ground or projecting type but it shall not project into the public right -of-way or public property.
2. One temporary signs such as "For Sale" or "For Rent" not exceeding six square feet in size.
3. Other temporary signs such as political campaign signs, greeting signs, or rally signs.
4. No other sign such as a hospital sign, church sign, school sign, or similar sign shall be erected in the residential district without first getting a permit from the planning commission.

The planning commission in its sole discretion decide on the size and the location of such a sign.

## **6.44 C-1 Commercial District**

### **6.44.1 Purposes**

The C-1 commercial district is primarily established to accommodate a cohesive and compact range of retail, office and commercial uses traditionally found in the downtown area

### **6.44.2 Permitted Uses**

The uses permitted in C-1 commercial district consist of retail uses and services, professional services which serve the city and its neighborhood but not including highway commercial uses which because of high traffic volume or other characteristics are more suited elsewhere.

#### **6.44.2.1 Retail Uses**

1. Antique shops, art and craft stores
2. Automobile accessories and automobile dealership
3. Clothing and department stores
4. Dry good stores
5. Flower shops
6. Furniture stores
7. Grocery stores
8. Hotels and motels
9. Household appliance stores
10. Jewelry stores
11. Musical instruments sales and service
12. Optical, orthopedic and medical supply stores
13. Paint and wallpaper stores
14. Restaurants
15. Rugs and floor covering stores
16. Service stations



17. Taverns

#### **6.44.2.2 Retail and Professional Services**

1. Advertising signs and billboards
2. Amusement places including bowling alleys, pool halls, theaters and similar facilities
3. Banks, insurance and real estate offices
4. Bed and breakfast facilities
5. Employment agencies
6. Fraternal and service organizations
7. Funeral homes
8. Hospitals and clinics
9. Meat markets and lockers
10. Professional offices included but not limited to law offices, utility companies and the like
11. Taxidermists
12. Travel agencies

#### **6.44.2.3 Residential Uses**

1. Single family attached and detached dwelling units
2. Two family dwelling units
3. Multi-family dwelling units
4. Boarding and lodging houses
5. Convalescent houses and nursing homes

#### **6.44.2.4 Public and Semi Public Facilities**

1. Churches
2. City and county facilities
3. Government offices and facilities
4. Parks, playgrounds and golf courses
5. Schools
6. Electric power production and substations.
7. Public utility buildings including water and wastewater facilities and accessories

**6.44.3 Conditional Uses**

1. Farm implement sales and service
2. Garages for repair and service of passenger motor vehicles
3. Grain elevators operated commercially
4. Processing and packaging of materials with less than ten (10) employees.
5. Storage facilities for rent
6. Storage and sale of chemicals, explosives and the like
7. Private storage facilities and workshops

**6.44.4 Lot Area and Lot Width**

**6.44.4.1** The minimum lot area in C-1 district for residential uses shall be

1. Seven thousand (7,000) square feet for single family units;
2. Ten thousand five hundred (10,500) square feet for two family units; and
3. Twenty five thousand (25,000) square feet for each multi-family unit excluding the yard requirements.

**6.44.4.2** For existing non-residential uses no minimum lot area is required. For new uses, the Planning Commission shall make a determination of needs provided that no structure shall occupy more than fifty percent (50%) of the lot area.

**6.44.4.3** The minimum lot width in C-1 district shall be

1. Fifty (50) feet for single family units;
2. Seventy five (75) feet for two (2) family units;
3. One hundred fifty (150) feet for multi-family units; and

**6.44.4.4** For existing commercial uses there is no minimum lot width. For new commercial uses the minimum lot width

shall be one hundred (100) feet.

**6.44.5 Yard Requirements**

1. The minimum front yard for all residential uses in C-1 district shall be fifteen (15) feet.
2. The minimum rear yard for all residential uses in C-1 shall be twenty (20) feet.
3. The minimum side yard for all residential uses in C-1 shall be eight (8) feet.
4. No minimum front or side yard is required for existing commercial use. For new commercial uses the planning commission shall determine the minimum front and side yards based on the nature of the use and compatibility with the adjoining uses and the parking requirements.

**6.44.6 Building Height**

1. There shall be no building height requirements for commercial uses.
2. The building height requirements for residential uses shall be two and one half (2 2) stories or thirty five (35) feet.

**6.44.7 Parking Requirements**

1. There shall be a minimum of one (1) off-street parking space for each residential unit in C-1 district. The Planning Commission may determine the parking requirements for the upper floor existing dwelling units in the downtown area.
2. For commercial uses in C-1 district the provisions of Section 32.63 shall apply.
3. The front yard and the rear yard spaces may be used for parking if approved by the Planning Commission.

**6.44.8 Sign Requirements**

1. The size and number of commercial signs used for commercial purposes including general identification of each

business in the C-1 commercial district is within the discretion of the Zoning Planning Commission.

2. Temporary signs including For Sale, For Rent, political campaign signs, greeting signs and rally signs within the C-1 commercial district shall not exceed fifty (50) square feet in area, but generally do not require prior approval of the Planning Commission.
3. Any other sign in the C-1 commercial district require a permit from the Planning Commission which approval is within the discretion of the Planning Commission.
4. The planning commission in its sole discretion decide on the size and the location of such a sign.

#### **6.45 I-1 Industrial District**

##### **6.45.1 Purpose**

The I-1 Industrial District is primarily established to accommodate industrial uses and facilities appropriate to Wishek. It is planned to encourage grouping of related industrial uses for preventing intrusion on other uses and to maintain an orderly, functional, appealing and efficient industrial land use system.

##### **6.45.2 Permitted Uses**

1. Any production, processing and sale of agricultural products produced in the Wishek region and related uses such as agricultural chemicals and fuels.
2. Any industrial or manufacturing operation provided that (1) dust, fumes, odors, smoke, vapor, noise, lights and vibration shall be confined within the I-1 district; and (2) outdoor storage, equipment and refuse areas shall be concealed from view abutting rights-of-way by materials prescribed by the Planning Commission.

3. Any production, processing and treatment of products such as battery and tire service, concrete and asphalt products, dairy processing, bottling works, ice and cold storage plants, machine and sheet metal shops provided that all operations be conducted entirely in enclosed buildings.
4. Building material and supply establishments.
5. Contractors yards and construction shops
6. Electric power production and substations.
7. Public utility buildings including water and wastewater facilities and accessories.
8. Radar stations and towers.
9. Radio and TV stations and studios.
10. Storage, warehousing and wholesaling establishments.

**6.45.3 Conditional Uses**

1. Local and regional sanitary landfills, compost sites, transfer stations and incinerators subject to provisions of Section 6.58.
2. Sand and gravel operation subject to provisions of Section 6.57
3. Salvage or junk yards subject to provisions of Section 6.59.
4. Conditional uses shall not be located nearer than five hundred (500) feet from any residential area.

**6.45.4 Lot Area and Lot Width**

1. The minimum lot area for I-1 district shall be one (1) acre.
2. The minimum lot width for I-1 district shall be two hundred (200) feet.

**6.45.5 Lot Coverage**

The principal and accessory uses excluding parking shall not cover more than fifty percent (50%) of the lot.

**6.45.6 Yard Requirements**

1. The minimum front yard, measured from the front lot line, shall be thirty (30) feet.
2. The minimum rear yard, measured from the rear lot line, shall be thirty (30) feet.
3. The minimum side yard, measured from the side lot line, shall be twenty (20) feet.
4. No building or structure shall be located a minimum of five hundred (500) feet from the boundary of a residential area.

**6.45.7 Building Height**

There shall be no building height requirement for industrial uses.

**6.45.8 Parking Requirements**

1. For industrial uses there shall be one off-street parking space for every two (2) employees.
2. Additional spaces shall be provided to accommodate trucks and other related motor vehicles.
3. For non-industrial uses the provisions of Section 6.53 shall apply.

**6.45.9 Sign Requirements**

1. For signs in I-1 district the provisions of Section 6.54 shall apply.
2. There shall be no restriction for signs in I-1 Industrial Districts. The Planning Commission shall determine the distance from the public right-of-way

**6.46 P-1 Public District**

**6.46.1 Purpose**

The public district is primarily established to create areas of use within the City for public facilities, recreation and education.

#### **6.46.2 Permitted Uses**

1. Public buildings and uses, including elementary and secondary schools, school athletic fields, parks, playgrounds, libraries, museums, community centers and recreation centers, police and fire stations, water towers and reservoirs, pumping stations.
2. Golf courses, country clubs, yacht clubs, tennis courts, swimming pools, and additional private uses, all noncommercial
3. Facilities and structures for drainage, flood control, pending, conservation, erosion control, reclamation, fire prevention, etc.
4. Churches, parish houses, convents, child nurseries, nursery schools, and private educational schools like public elementary and secondary schools.
5. Sale, on the premises and in season only, of products produced on the premises.
6. Signs, including mailbox and fire protection identification, official traffic signs, and the following: One only sign not more than twelve square feet in area pertaining to the lease, hire or sale of land or a building on which located, and not more than six square feet for farm equipment or the sale of farm products from the premises; one only outdoor bulletin board not more than twelve square feet in area for a church or school on the property on which located; and one only name plate of not more than one square foot in area pertaining to a home occupation or permitted use, provided none except official traffic signs shall be illuminated by other than the reflector method.

#### **6.46.3 Conditional Uses**

1. Non-farm single-family dwellings
2. Commercial recreation areas, including golf driving ranges and miniature golf courses, beaches, picnic areas, playgrounds and amusement parks, not closer than five hundred feet or such larger distance as may be deemed desirable to any R-1, R-2, or R-3 District or to any land subdivided or used for any non-farm residential purposes.
3. Informational and directional signs, any use permit for which shall be for a period of not more than one (1) year and subject to conditions specifying location and size of sign, message, and illumination
4. Concessions, catering to those using public parks, playgrounds
5. Salt, gas, or oil wells or drilling, gravel pits, mineral exploration or recovery, dumps, and dog pounds
6. Campgrounds, automobile camps, and trailer courts for temporary periods only.
7. Automobile parking lots

**6.46.4 Lot Area And Lot Width**

1. Lots of at least one (1) acre are required, such areas being exclusive of water or swampy area or any are subject to flood
2. The lot width for any use in public use districts shall not be less than two hundred (200) feet

**6.46.5 Yard Requirements**

1. The minimum front yard, measured from the front lot line, shall be not less than twenty-five (25) feet
2. The minimum rear yard, measured from the rear lot line, shall not be less than thirty-five (35) feet
3. The minimum side yard, measured from the side lot line, shall not be less than twenty (20) feet



**6.46.6 Building Height**

1. The building height shall not exceed two and one half (2 2) stories or thirty-five (35) feet except for church stables and communication structures

**6.46.7 Parking Requirements**

The provisions of section 6.53 shall apply

**6.46.8 Sign Requirements**

The provisions of section 6.54 shall apply

**6.50 SPECIAL PROVISIONS**

**6.51 Additional Use Provisions, Restrictions, and Requirements**

No use, whether permitted or conditional, shall be permitted if the use is deemed, by the Planning Commission, to be dangerous, obnoxious or offensive to persons residing in the vicinity thereof, or impair the use, enjoyment or value of any property.

**6.52 Non-conforming Uses**

**6.52.1 Purpose**

The purpose of this section is to provide for the regulations of non-conforming buildings and uses and to specify those circumstances and conditions which adversely affect the maintenance, development, use or taxable value of other property in the area and whether these shall be permitted to continue or shall be discontinued.

**6.52.2 Authority to Continue**

Any non-conforming building or use which existed lawfully and conforming at the time of adoption of this ordinance and which has become non-conforming upon adoption of this ordinance may be continued. But if the non-conforming use or occupancy is discontinued for a period of more than twelve (12) consecutive calendar months any subsequent use or occupancy of the premises shall be a

conforming use or occupancy.

### **6.52.3 Change or Expansion of Use**

Whenever the use of a building becomes a non-conforming use through a change in zoning ordinances or change in district boundaries, the use may be continued, if no structural alterations are made. A non-conforming building, which is non-conforming as to bulk, shall not be added to or enlarged in any manner unless such changes are made to conform to all of the regulations of the district in which it is located.

### **6.52.4 Repairs and Alterations**

Ordinary repairs and alternations may be made to a non-conforming building, provided that no structural alterations be made except to make the building or use conforming to the provisions of the district in which it is located.

### **6.52.5 Restoration of Damaged Building**

Whenever a building is destroyed or damaged by fire or other casualty to the extent of more than sixty percent (60%) of its full market value, it shall not be restored unless said building and use shall conform to all of the regulations of the district in which it is located. In the event such damage or destruction is less than sixty percent (60%) of such full market value, repairs or construction may be made within one year from the date of destruction.

### **6.52.6 Elimination of Non-conforming Uses**

Any building which becomes a non-conforming use at the time of adoption of this ordinance or which may become a non-conforming use at a future date upon determination of the City Council may not be continued more than ten (10) years, unless an extension is granted by the City Council. Any uses of premises not involving a building, which is a non-conforming use, shall be eliminated within one (1) year after the adoption of this ordinance.

### **6.52.7 Moving of a house or building.**

If a house or building is moved or tore down, the owner of the property has 30 days to remove the walls of the basement and fill the hole with dirt. If the property owner wishes to keep the basement and build a new structure they have

30 days to cover with a temporary solid covering.

## **6.53 Off-Street Parking**

### **6.53.1 Purpose**

The purpose of this section is to provide for the off-street parking regulations to

1. Increase the safety and capacity of public street by requiring off-street parking or loading facilities.
2. Minimize adverse effects of off-street parking and off-street loading facilities on the adjacent properties.
3. Lessen congestion and prevent the overloading of public streets by regulating the location and capacity of off-street parking or off-street loading facilities.

### **6.53.2 General Requirements**

1. An off-street parking space shall be at least nine (9) feet wide and twenty (20) feet long, exclusive of access drives or ramps and have a vertical clearance of at least seven (7) feet.
2. All open off-street parking areas with four (4) or more spaces and all loading berths shall be
  1. Improved with all weather surface to provide a durable and dust free surface;
  2. Graded to dispose of all surface water run-off but not be diverted to adjoining properties;
  3. Arranged and marked to provide for orderly and safe parking;
  4. Provided with access road of eight (8) feet for a residence or fifteen (15) feet for a nonresidential building;
  5. Screened by wall, fence or landscaping from the street or from any residential or institutional property.

**6.53.3** Off-street parking or loading facilities requirements shall be met on the same lot as the building served unless the adjoining lot is exclusively used for meeting the parking requirements of a building or use.

## **6.54 Signs**

### **6.54.1 Purpose**

The purpose of regulating signs in the City of Wishek is to provide for a visually pleasant urban environment and minimize potentially unsafe street, highway and sidewalk conditions for all age groups, but yet offer many opportunities for public and private information and advertising.

1. The planning commission in its sole discretion decide on the size and the location of such a sign.

### **6.54.2 General Requirements**

1. No sign shall be located, erected, moved, reconstructed, extended, enlarged or structurally altered without obtaining a permit from the Code Administrator. Non-conforming signs shall be subject to the provisions of Section 6.54 of this ordinance.
2. All signs, canopies, awnings, and marquees shall be structurally safe and securely anchored, fastened, or supported in order to protect the safety of persons or property.
3. No revolving beacon or fountain signs are permitted in any district, except such signs connected with the operation of the airport or public facilities.
4. No sign, canopy, awning or marquee in any district shall conflict in any manner with public devices controlling public traffic.

5. Publicly owned and maintained ground signs shall not be erected on public right-of-way unless approved by the City Council.
6. Signs, canopies, awnings and marquees projecting over a street public way or other public space shall project not more than two (2) feet. Clearance below such signs shall be a minimum of nine (9) feet.

#### **6.54.3 Special Requirements**

1. Signs for conditional uses shall be consistent with the provisions for the district in which they are located and the provisions of this section.

#### **6.55 Accessory Building in Rear Yard**

Accessory buildings may be built in a required rear yard but shall not occupy more than thirty percent (30%) of a required rear yard and shall not be nearer than five (5) feet to any side lot line or rear lot line, except that when a garage is entered from an alley at right angle, it shall not be located closer than ten (10) feet to the alley line. If a garage is located closer than ten (10) feet to the main building the garage shall be regarded as part of the main building for the purposes of determining side yards and rear yards. Must be attached or anchored to a permanent cement foundation, cement must be 4 inches wide and 4 inches deep.

##### **6.55.1 Erection of Fences**

It shall be unlawful for any person to install, erect, construct, relocate, or alter a fence within the city without first obtaining a permit therefore from the city. No permit shall be issued if the Planning Commission determines that the proposed fence does not meet the requirements of this section. A sketch or design of the proposed fence; including a description of

materials to be used and specification of the height, shall be submitted with the application for a permit. All fences except security fences shall be of a decorative nature.

**A. Height restrictions**

It shall be unlawful for any person to erect or construct a fence exceeding six (6) feet in height on any residential property within the city. Fences exceeding six (6) feet in height, in zoning where it is permitted, and fences to be placed around school grounds, construction sites, etc., shall be constructed as required in the Uniform Building Code.

**B. Electric Fences Prohibited**

It shall be unlawful for any person to erect, install, or maintain any electrically charged fence within the city except, upon approval from the Planning Commission, for retaining animals upon proof that the fence will not be hazardous or dangerous to life.

**C. Barbed Wire Fencing**

It shall be unlawful for any person to erect, construct, or maintain any barbed wire fencing within the city except; 1) One course of barbed wire may be installed above the top of a six-foot or higher fence located in a district zoned for industrial purposes or on property used for industrial purposes under a valid nonconforming use. 2) Barbed wire fences, which comply with state statutes, may be erected, constructed, and maintained on premises zoned for permitted agricultural uses.

**D. Fences Creating Safety Hazards Prohibited.**

It shall be unlawful for any person to erect, install, or maintain a fence, which obscures clear view of traffic at intersections or driveways or which creates a safety hazard to pedestrians or

vehicular traffic.

**6.56 Front Yard Adjustments**

The front yards established in this ordinance shall be adjusted in the following cases. Fences and hedges can be up to not touching the lot line.

**6.56.1** Where forty percent (40%) or more of the frontage on the same side of streets between two (2) interjecting streets is developed with two (2) or more buildings that have, with a variation of five (5) feet or less, a front yard greater in depth than required in this ordinance, new buildings shall not be erected closer to streets than the front yard so established by the existing building nearest the street.

**6.56.2** Where forty percent (40) or more of the frontage on one side of street between two (2) intersecting streets is developed with two (2) or more buildings that have a front yard of less depth than required in this ordinance, the following shall govern:

**6.56.3** Where a building is to be erected on a parcel of land that is within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two (2) closest front corners of the adjacent building on each side.

**6.56.4** Where a building to be erected on a parcel of land that is within one hundred (100) feet of an existing building on one side only, the building may be erected as close to the street as the existing adjacent building.

**6.57 Mining of Sand and Gravel**

**6.57.1 Purpose**

The purpose of these provisions is to provide for mining 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 road network.

#### **6.57.2 Side Approval Requirements**

All sand and gravel mining, excavation sites require approval by the City Planning Commission and City Council.

#### **6.57.3 Data Submission Requirements**

**6.57.3.1** A site plan for operation and reclamation of the mined land including maps showing location of the land to be mined, location of roads and 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.

**6.57.3.2** A guarantee that the reclamation of the site be completed within one year of the closure of the operation of the site.

**6.57.3.4** Proof of compatibility with the existing landform including the vegetation, surface and ground water resources.

#### **6.57.4 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.

#### **6.57.5 Permit Requirements**

Any person who operates a sand and gravel operation shall obtain a permit from the Code Administrator before starting any mining or excavation of the sand and gravel sites.

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



**6.58.1 Compliance with State Laws and Rules**

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

**6.58.2 City Ordinance and Procedures**

The City of Wishek hereby adopts solid waste provisions, subject to the provisions of NDCC 11-33-20, to assure meeting the purposes of this ordinance and the City Comprehensive Plan (Development Guide).

**6.58.3 Purpose**

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

**6.58.4 Site Approval Requirements**

All solid waste sites require a review by the Planning Commission and approval by the City Council.

**6.58.5 Locational Standards**

1. No landfill incinerator shall be located within one thousand (1,000) feet of residential uses, and five hundred (500) feet of commercial buildings and structures.
2. No landfill shall be located in areas which due to high water table, flooding, or soil conditions may affect the quality of surface and ground water.
3. No landfill operation shall be located nearer than two hundred (200) feet of all road highway rights-of-way.

**6.58.6 Data Submission Requirements**

1. Maps of the area showing existing features such as roads, highways, vegetation cover, water courses, drainage way, soils, topography, depth of water table, wet lands, sloughs, existing uses, buildings and

structures including the existing utility lines.

2. A plan for operation of the site including a descriptive text explaining consistency or inconsistency with the natural or man made environment.
3. Records of data and information submitted to the state of North Dakota appropriate agencies and the county as a part of application for state and county permits.
4. The Planning Commission may require additional information if it deems it necessary.

#### **6.58.7 Statement of Findings**

Upon the public notification and a public hearing, the Planning Commission shall determine whether the proposed site meets the requirements of this ordinance. The Planning Commission may recommend conditions for approval of the site to the City council.

### **6.59 Junk or Salvage Yards**

#### **6.59.1 Purpose**

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

#### **6.59.2 Site Approval Requirements**

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

#### **6.59.3 Locational Standards**

1. 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.
2. 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.

3. No salvage or junkyard shall be located nearer than one hundred (100) feet of all road and highway rights-of-way.
4. All salvage yards and operations shall be screened from the public view unless the salvage material is placed five hundred (500) feet away from any highway right-of-way and screened by natural vegetation, building and landform.

## **6.60 ADMINISTRATION AND ENFORCEMENT**

### **6.61 Organization**

Administration of this ordinance is hereby vested in three (3) offices of the City of Wishek:

- (1) The City Code Administrator
- (2) The Planning commission
- (3) The Board of Adjustment

### **6.62 The Code Administrator**

The Code Administrator is a duly appointed city official authorized by the City Council and is responsible to assist and make recommendations to the Planning Commission, to the Board of Adjustment and to the City Council on any matter related to planning for and development of the city.

#### **6.62.1 Duties and Responsibilities**

The Code Administrator shall be specifically responsible for the administrative responsibilities of the Planning Commission and the Board of Adjustment.

1. Issue, upon approval by planning commission or code administrator, all building and repair permits
2. Issue, upon approval by planning commission, all certificates of occupancy for all buildings including mobile homes and manufactured homes.

3. Maintain zoning related records and zoning district map including records of all amendments, conditional uses and variances.
4. Receive, file and forward to the Planning Commission all applications for zoning amendments and conditional uses.
5. Receive, file and forward to the Board of Adjustment all appeals for variances and special use permits.
6. Forward all recommendations of the Planning Commission to the City Council for final action.
7. Serve as secretary for the Planning Commission and the Board of Adjustment.

### **6.63 The Planning Commission**

The Planning Commission, a citizen body, nominated by the Mayor and confirmed by the City Council, is hereby vested with authority and jurisdiction to administer the Zoning Ordinance, Subdivision Regulations, Building Code and Housing Code and to assist and make recommendations to the Board of Adjustment and to the City Council on any matter related to planning for and development of the city.

#### **6.63.1 Membership**

The Planning Commission shall consist of no more than five (5) members, with one (1) member who shall reside within the extraterritorial planning area and to be appointed by the McIntosh County Board of Commissioners. Other members are nominated by the Mayor and appointed by the City Council.

#### **6.63.2 Duties and Responsibilities**

1. The Planning Commission shall be specifically responsible for interpretation and enforcement of this ordinance including the issuance of building permits.
2. Approve all zoning certificates and maintain records thereof.

3. Approve all building and repair permits
4. Approve all certificates of occupancy for all buildings including mobile homes and manufactured homes.
5. Inspect all buildings, structures and use of land to determine compliance with these and other applicable regulations of the city.
6. Notify, in writing, the property owner or user upon finding violation of this ordinance and cite the nature of violation clearly and require compliance within a reasonable time. If the notification is not replied to or steps are not taken to correct the violations within thirty (30) days, the Planning Commission shall make a report of the findings to the City Attorney and City Council.
7. Maintain zoning related records and zoning district map including records of all amendments, conditional uses and variances.
8. To hear and act on all applications for amendments to zoning districts and make recommendations to the City Council for approval, denial or approval with modification.
9. To hear and act on all applications for conditional uses in the manner prescribed in this ordinance and make recommendations to the City Council for approval or denial.
10. To hear and act on all other matters referred to by the City Council
11. To study, examine and make recommendations to the City Council regarding comprehensive planning for the future development of Wishek.

**6.63.3 Officers**

The Planning Commission shall elect its own officers according to its by laws and may establish rules and procedures for all cases before it.

**6.63.4 Notice of Hearings**

The Planning Commission shall fix a reasonable date for hearing of applications for zoning district amendments, conditional use permits and other matters before it, give public notice thereof in the official newspaper of the city at least one (1) week prior to the hearing. The notices shall state the purpose of the hearing and that the applications and supporting documents for zoning district amendments and conditional use permits are available for public inspection in the office of the Code Administrator during the normal working hours.

**6.63.5 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. Meetings are held the 3<sup>rd</sup> Monday on the month at City Hall, unless a holiday falls on Monday then meetings are moved to the next working day.

**6.63.6 Interpretation of Regulations**

All questions of interpretation of this ordinance shall be first presented to the Code Administrator, who shall forward the question to the Planning Commission and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the

Planning Commission and that the recourse from the decision of the Board of Adjustment may be made by an appeal to the City Council (unless the Board of Adjustment is the City Council).

**6.63.7 Building Permit Application**

Applications can be obtained from and returned to City Hall.

Building Permits needed as follows:

No Fee's applied \* Permit Needed for Replacing & same size\* Code Administrator can approved the following

1. Shingles
2. Siding
3. Windows & doors
4. Gutters
5. Sidewalk/Driveway's
6. Interior Replacing or upgrades

Fees applied (see schedule)

Approval needed for permits by Planning Committee  
Any additions and or structure changes permit needed for anything exterior.

**6.63.8** Each application for a building permit shall be accompanied by a legal description and a map

showing the actual dimension of the lot to be built upon, the size, shape and location of the building for observing the yard requirements of this ordinance.

**6.63.9** 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 probable building cost, together with such additional plans and specifications as may be required by the Code Administrator.

**6.63.10** The edition of the Uniform Building code as published by the International Conference of Building Officials and adopted by the City Council, together with any amendments made hereafter are incorporated and made a part of this ordinance. In the event there is a conflict between the Uniform Building Code and the regulations, this ordinance shall supersede.

**6.63.11 Building Permit**

The Planning Commission shall issue a building permit if the proposed building or structure conforms to zoning and building provision of this ordinance. If the Planning Commission denies a permit because of non-conformance with this ordinance, they shall inform the applicant of his/her right to appeal to the Board of Adjustment.

**6.63.12 Building Permit Fees**

The Code Administrator shall charge and collect a fee according to the Resolution of Fees and Schedules established by the City of Wishek.

**6.63.13 Certificate of Occupancy**

**None**



**6.63.14 Conditional Use Permit**

The Code Administrator shall issue a conditional use permit upon approval of the application by the City Council in which all conditions shall be stipulated subject to the provisions of Section 6.62 of this ordinance.

**6.63.15 Variances**

The Code Administrator shall issue the appropriate permit if the Board of Adjustment or the City Council reverses the Planning Commission decision in case of an appeal by a citizen. The terms of the variance shall be stipulated subject to the provisions of Section 6.70 of this ordinance.

**6.63.16 Emergency Building Permit**

Emergency building permit, may be issued by Code Administrator in emergency situations only.

**6.64 Board of Adjustment**

The Board of Adjustment, a citizen body, appointed by the Mayor and confirmed by the City Council, is hereby vested with authority and jurisdiction to review and act upon all applications for appeal regarding the interpretation and restrictions of this ordinance. The City Council may act as the Board of Adjustment.

**6.64.1 Membership**

The Board of Adjustment shall serve for four (4) overlapping terms. If the City Council serves as the Board of Adjustment the terms will follow the terms of elected office.

**6.64.2 Duties and Responsibilities**

1. To hear and decide all appeals forwarded by the Planning Commission.
2. To hear and decide all matters referred by the City Council.
3. To hear other matters related to the interpretation and

administration of this ordinance.

**6.64.3 Appeals**

Appeals to the Board of Adjustment concerning interpretation or administration of this ordinance may be taken by any person. The appeal shall be taken within sixty (60) days by filing with the Code Administrator a notice of appeal specifying the grounds thereof. The Code Administrator shall forward to the Board of Adjustment all papers constituting the record and the Planning Commission's comments on this matter.

**6.64.4 Notice of Hearings**

The Board of Adjustment shall fix a reasonable time for the hearing of appeals; give public notice thereof in the official newspaper of the city at least one week prior to the hearing. The notice shall state the purpose of the hearing and that the application and supporting documents for appeal are available for public inspection in the office of The code Administrator during normal working hours.

**6.64.5 Meetings**

All meetings of the Board of Adjustment are open to the public and any one may testify for or against the application for appeal.

**6.64.6 Authority to Reverse, Affirm Decisions**

The Board of Adjustment may reverse or affirm in whole or in part, or may modify the order, requirements, decisions or determination appeal from the decision of the Planning Commission. The decision of the Board of Adjustment on variances and special use permits shall be final, but an appeal may be made to the City Council (unless the City Council is the Board of Adjustment) for further review and action.

**6.64.7 Action for Reversal of Decisions**

The concurring vote of three-fourths (3/4) of members of the Board of Adjustment present is necessary to reverse any order, requirement, decision of determination of the Planning Commission, or to decide in favor of the applicant on any matter upon which it is required to decide under this ordinance or to affect any variation in the application of this ordinance.

#### **6.64.8 Rules and Procedures**

The Board of Adjustment shall elect its officers and may establish rules and procedures for review of all cases before it. Members may be removed from office by the City Council for cause after a public hearing.

#### **6.65 Violations and Penalties**

Any person who violates any provision of this ordinance or fails to comply with any of its requirements including the conditions for modification of use, building or structure shall upon conviction thereof forfeit up to \$500.00 per day and in addition pay all cost and expenses involved in the case. Each day such violation continues shall constitute a separate offense.

### **6.70 PROCEDURE FOR AMENDMENTS, CONDITIONAL USES AND VARIANCES**

#### **6.71 Zoning District Amendments**

##### **6.71.1 Public Hearing Notice**

The Planning Commission shall hold a public hearing, a notice of which shall be published at least one week prior to the hearing in the official newspaper of the city. The notice of hearing shall include (1) the time and place of hearing; (2) description of the property by street address for platted lands and clearly identifiable location for the unplatted lands; (3) the proposed use and requested zoning district change; and (4) time and place for public inspection of the documents in the city offices before the hearing.

##### **6.71.2 Public Hearing**

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 recommendations to the City Council for approval, denial or modification of the petition. The Planning Commission may require additional information before it completes its findings and recommendations.

##### **6.71.3 Data Submission Requirements**

Petitions for zoning district change and conditional uses shall be submitted with

the following information:

1. Legal description of the area proposed to be rezoned, the name and addresses of all owners of property lying within such area.
2. A list of the names and addresses of the owners of all properties within one hundred fifty (150) feet of the proposed property, excluding the width of the streets rights-of-way.
3. A map showing the existing land uses and zoning district classification of the area.
4. A site plan showing buildings and uses and in the zoning district proposed to be changed and the requested zoning district classification.
5. A fee shall be paid in accordance with the schedule established by the City Council.

#### **6.71.4 Deliberation and Decision**

Following the hearing, the Planning Commission, upon due deliberation, shall make a report of its findings and recommendations on the proposed amendment to the City Council within thirty (30) days after the hearing. If no recommendations are transmitted by the Planning Commission within thirty (30) days after the hearing, the City Council may take action without awaiting such recommendations. In making its finding, the Planning Commission shall ascertain that the proposal for zoning district amendment is consistent with the City Comprehensive Plan and meets all requirements of this ordinance and other regulations of the city.

#### **6.71.5 Effect of Protest**

If a protest against zoning district change is signed by twenty percent (20%) of (1) owners of the property within the proposed site; or (2) twenty percent (20%) of the owners of the adjoining properties within one hundred fifty (150) feet of the site excluding street rights-of-way, the Planning Commission shall make a notice of statutory protest in transmitting its recommendation to the City Council, where a vote of three-fourths (3/4) of all Council members is necessary to approve the zoning district change.

## **6.72 Conditional Use Permits**

### **6.72.1 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.

### **6.72.2 Public Hearing Notice**

Shall be the same as the provisions set forth for public hearing for zoning district amendment in Section 6.70.

### **6.72.3 Public Hearing**

Shall be the same as the provisions set forth for public hearing for zoning district amendments in Section 6.70.

### **6.72.4 Data Submission Requirements**

Shall be the same as the provisions set forth for data submission requirements for zoning district amendment in Section 6.70.

### **6.72.5 Deliberation and Decision**

Shall be the same as the provisions set forth for deliberation and decisions for zoning district amendment in Section 6.70.

### **6.72.6 Standards**

No application for conditional use shall be recommended for approval unless the Planning Commission finds that all of the following conditions are present:

1. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no

foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. That the conditional use shall substantial conform to all applicable regulations of the district in which it is located.

**6.72.7 Conditions and Guarantees**

1. Prior to the decision on any conditional use, the Planning Commission may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 6.72. In all cases in which conditional uses are granted, the Planning Commission shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.
2. No alteration of a conditional use shall be permitted unless approved by the City Council. Where the City Council has approved or conditionally approved an application for a conditional use, such approval shall become null and void within twelve (12) months of the date of the City Council's

action unless the use is commenced, construction is underway or the current owner possesses a valid building permit.

**6.73 Variances**

Variance from the terms of this ordinance shall be granted provided that the applicant establishes proof of practical difficulty or undue hardship.

**6.73.1 Public Hearing Notice**

The Planning Commission shall hold a public hearing, a notice of which shall be published at last one week prior to the hearing (NDCC 40-47-04) in the official newspaper of the city. The notice of hearing shall include (1) the time and place of hearing; (2) description of the property by street address for platted lands and clearly identifiable location for the unplatted lands; (3) the proposed use and requested zoning district change; and (4) time and place for public inspection of the documents in the City Offices before the hearing.

**6.73.2 Public Hearing**

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 approves, deny or modify the proposal. The Planning Commission may require additional information before it completes its findings and decision.

**6.73.3 Data Submission Requirements**

Petitions for variances or special use permits shall be submitted with the following information:

1. Legal description of the area proposed to be rezoned, the name and addresses of all owners of property lying within such area.
2. A list of the names and addresses of the owners of all properties within one hundred fifty (150) feet, excluding

the street rights-of-way.

3. A map showing the existing land uses and zoning district classification of the area.
4. A site plan showing the existing buildings and uses and the requested changes.
5. A fee shall be paid in accordance with the schedule established by the City Council.

#### **6.73.4 Deliberation and Decision**

In making its finding, the Planning Commission shall ascertain that the request for variance is consistent with the City Comprehensive Plan and meets all requirements of this ordinance and other regulations of the city.

#### **6.73.5 Standards**

No application for variance or special use permit shall be approved unless the Planning Commission finds that all of the following are present.

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

#### **6.73.6 Justification**

1. That the reasons set forth in the application justify the granting of the variance.
2. The variance is the minimum, which would make possible a reasonable use of the premises.



3. That the granting of variance will be in harmony with the general purpose of this ordinance and will not be injurious to the surrounding premises, neighborhood or the city and will not be contrary to the comprehensive plan and the purposes of this ordinance.
4. That there is practical difficulty or unnecessary hardship in use of the premises if the strict application of the regulations were to be carried out.

#### **6.73.7 Authorized Variances**

A variance shall not be granted for any yard or setback less than the yard or setback as required by this ordinance.

1. To reduce not by more than twenty percent (20%) the applicable requirements for lot area and lot width.
2. To reduce the applicable off-street parking or loading facilities by no more than fifty percent (50%) of the requirements.
3. To permit the use of lot of record if it is smaller than the minimum size required by this ordinance.
4. To permit roof alterations to provide additional windows, headroom or area for occupancy of third level.
5. To permit conversion of an existing building to a permitted residential use provided that it shall not conflict with the above standards cited in Sections 32.83.5 and 32.83.6.

### **6.74 Action of the City Council**

#### **6.74.1 Initiation of Amendment**

Amendments may be proposed by the City Council, the Planning Commission, the Board of Adjustment or any person, firm, corporation or organization which has a freehold interest or contractual interest in a building,

structure, lot, or parcel of land.

**6.74.2 Application for Amendment**

Application for an amendment shall be filed with the Code Administrator who shall forward all such applications to the Planning Commission, or the City Council.

**6.74.3 Notice of Public Hearing**

Notice of hearing shall include time, place and purpose of such hearing and shall be published at least one week before the hearing in the official newspaper of the city. This hearing is independent of the hearing held by the Planning Commission.

**6.74.4 Public Hearing**

At the public hearing before the City Council, the proposed amendment is discussed together with the recommendations of the Planning Commission. Any person may express opposition to or support for the amendment at such hearing.

**6.74.5 Decision of City Council**

In the event that a written protest against a proposed amendment or conditional use application is filed by owners of twenty percent (20%) or more of the area within the proposed amendment or owners of twenty percent (20%) or more of the adjoining land within one hundred fifty (150) feet of the proposed site excluding street rights-of-way, such amendment or conditional use application shall not become effective except by the favorable vote of three-fourths (3/4) of the City Council.

**6.74.6 Effect of Denial of Application**

An application for an amendment to the zoning district map or conditional use permit which has been denied by the City Council shall not be made for a period of one year from the date of such denials, unless the new application is substantially different from the denied application.

RESOLUTION ESTABLISHING BUILDING PERMITS

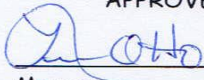
Whereas, Section 6.63.12 of Ordinance, provides that the Council shall establish a schedule of fees for building permits; now therefore,

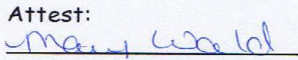
BE IT RESOLVED that the following schedule of fees for building permits is hereby adopted:

Probable Construction Cost	Fee
\$0 - \$5,000	\$0
\$5,001 - \$20,000	\$10
\$20,001 - \$50,000	\$20
\$50,001 - \$100,000	\$30
\$100,001 and above	\$40

BE IT FURTHER RESOLVED, that no application for a permit shall be considered until such a fee has been paid.

APPROVED THIS 5<sup>th</sup> DAY OF JUNE, 2017

  
\_\_\_\_\_  
Mayor

Attest:  
  
\_\_\_\_\_  
Auditor