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CHAPTER SIX

ZONING ORDINANCE

ARTICLE 1 - Title and Purpose

6.0101 Zoning Ordinance of the City of Harvey

This Ordinance shall be known and may be cited and referred to as "The Zoning Ordinance of the City of Harvey, North Dakota," to the same effect as if the full title were stated.

6.0102 Purpose

The purpose of this Ordinance is to provide for a legal method of controlling the use and development of land so as to yield the greatest benefits to All people in the community; to protect the physical environment and the individual property owner by preventing land use conflicts and stabilizing property values; to guide future development; to provide use, height and area regulations; to prevent congestion on roads and highways; to protect historic and scenic area; to provide adequate open space for light and air; to secure safety from fire, panic and other dangers; to prevent undue concentration of population; to facilitate adequate provisions for utilities and facilities such as transportation, water, sewage, schools, parks and other public requirements; and to promote the health, safety and general welfare of the public.

ARTICLE 2 - Planning and Zoning Commission

6.0201 Planning and Zoning Commission Created

There is hereby created a planning and zoning commission consisting of five (5) members to be appointed by the City of Harvey Mayor, with the approval of the City Council. The Mayor, the Engineer and City Attorney shall be ex-officio members thereof. The Planning and Zoning Commission shall recommend that boundaries of various districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings before making a final report regarding various districts. Such commission shall also hold hearings and make reports and recommendations as to the supplements and changes in boundaries and regulations. (Source: North Dakota Century Code Section 40-47-06, and Section 40-48-03)

6.0202 Terms, Compensation, Meetings

The terms of the members, their compensation, and meetings shall be as provided by State Law and Resolution of the City Council. (Source: Chapter 40-48 of the North Dakota Century Code).

ARTICLE 3 - Definitions

6.0301 Definitions

For the purpose of the Ordinance certain terms and words are hereby defined. Words used in the present tense shall include the future, and words used in the singular number shall include the plural and the plural the singular. The word "building" shall include the word "structure," the word "lot" shall include the word "plot," and the word "shall" is mandatory and not directory. The words "used" or "occupied" shall include the words "intended," "designed," or "arranged" to be used or occupied. The word "person" shall include a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

1. ACCESSORY USE or STRUCTURE: A subordinate building or use which is located on the same lot on which the main building or use is situated, and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.
2. ACREAGE: Any tract or parcel of land which has not been subdivided or platted
3. ADULT BOOKSTORE: An enclosed building having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by the emphasis on matter depicting less than completely and opaquely covered human genitals, public region, buttocks, or female breast below a point immediately above the top of the areola.
4. ADULT CINEMA: An enclosed building used on a regular basis for presenting materials or other visual images by way of direct or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction of less than completely or opaquely cover human genitals, public region, buttocks, or female breast below a point of the areola.

5. ADULT ENTERTAINMENT CENTER: An adult bookstore or adult cinema, or both.
6. ALLEY: A minor street providing vehicular service access to the back or the side of two or more properties, which is not less than 20 feet nor more than 40 feet in width and provides only a secondary means of access to abutting property.
7. AMENDMENTS: Any change, revision or modifications of the text of this ordinance, district boundaries or the district zoning map in order to meet changing conditions within the community.
8. ANIMAL HOSPITAL OR CLINIC: An establishment where animals are admitted principally for examination, treatment, board and care by a doctor of veterinary medicine.
9. APARTMENT: A room or suite of rooms in a multiple family structure which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.
10. AUTOMOBILE CAMP: Land or premises used or occupied for compensation by campers traveling by automobile or otherwise occupied by trailer coaches or movable dwellings. Rooms or sleeping quarters of any kind.
11. AUTOMOBILE REPAIR: General repair, engine rebuilding or reconditioning of motor vehicles, collision services, such as body frame or fender straightening and repair; and overall painting of motor vehicles.
12. AUTOMOBILE SERVICE STATION: A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease for operation of automobiles are retailed directly to the public on the premises, and including minor accessories and services for automobiles but not including automobile repair and rebuilding. When the dispensing, sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage.
13. AUTO WRECKING AND JUNK YARD: Any place where two more motor vehicles not in running condition, or parts thereof, are stored in the open and are not being restored to operation, and any land, building or structure used for wrecking or storage of such motor vehicles or parts thereof stored in the open and not being restored to operating condition, including the commercial salvage of any other goods, articles or merchandise.
14. BASEMENT: A story partly or wholly underground. Where more than one-half of its height is above the average level of the adjoining ground, a basement shall be counted as a story for height measurements.
15. BILLBOARD: Any structure or portion thereof upon which are signs or advertisements used in an outdoor display. This definition does not include any bulletin boards used to display official court or public office notices, or signs advertising the sale or lease of the premises on which the sign is located.

16. BOARDING HOUSE: A building other than a hotel or restaurant, where meals are provided for compensation for four or more persons, but not exceeding twelve (12) persons.
17. BUILDING: Any structure having a roof supported by columns or walls and designed or intended for the shelter, enclosure and protection of people, animals or chattels.
18. BUILDING AREA: The building area of a lot; i.e., the space remaining after the mean open space requirements of the ordinance have been complied with.
19. BUILDING HEIGHT: The vertical distances measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest point of the roof; in the case of a flat roof to the height of the exterior wall; to the deck line of the mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof, provided that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.
20. BUILDING LINE: For the purpose of this ordinance the building line is the same as the front yard setback line.
21. BUILDING WIDTH: The horizontal distance from one side of a structure to the other side at the widest point.
22. CARPORT: A structure attached or made a part of the main structure which is open to the weather on at least two (2) sides and intended for the use of sheltering not more than two (2) motor driven vehicles.
23. CHILD CARE FACILITY: Any facility, other than an occupied private residence, which is licensed by the Department of Human Services to provide supplemental parental care on a regular basis to eight or more children.
24. COMMERCIAL AGRICULTURE: The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including but not limited to the following:
 - a. Field crops, including: barley, soybeans, corn, hay, oats, potatoes, rye, wheat, sunflower, and sugar beets.
 - b. Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds, and other animals including dogs, ponies, and rabbits.
 - c. Livestock products, including: milk, butter, cheese, eggs, meat, fur, and honey.
25. CONDITIONAL USE: A use which is not appropriate generally or without restriction throughout a zoning district, but which, if controlled promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general

welfare. Such uses are permitted in a zoning district as a conditional use if specific provision for such uses is made in the zoning district regulation.

The following uses of land or structures, or both, may be permitted within any "Use District", subject to the provisions of applicable sections of this ordinance:

1. Helicopter landing field.
2. Area for the dumping or disposal of trash or garbage.
3. Bus terminal, railroad passenger station, or any other transportation terminal facilities.
4. Churches and accessory buildings used for religious teaching.
5. Excavation of gravel, sand or other raw materials.
6. Golf course, public or private.
7. Hospital or sanitarium.
8. Institutions for the care of the insane or feeble-minded.
9. Medical facilities such as chiropractic, dental, and eyes, ears, nose, and throat specialists.
10. Municipal or privately owned recreation building or community center.
11. Nursery schools, day nurseries and child care centers, provided there is a minimum of one hundred (100) sq. ft. of outdoor play area for each child to be cared for and that the play area is fenced and screened with plantings from an adjoining lot in any "R" district.
12. Police stations, fire stations, or buildings for storage of municipal equipment.
13. Public administration buildings, auditoriums, gymnasiums, or other publicly owned structure.
14. Parking area, public.
15. Public utility facilities, i.e., filtration plant or pump station, heat or power plant, transformer station and other similar facilities.
16. Radio and television antenna towers, commercial.
17. Railway right of way.
18. School, public or private.
19. Telephone exchange.

26. CONDOMINIUM: Individual ownership of a unit in a multiple dwelling structure.
27. CONVENIENCE ESTABLISHMENT: Small establishments designed and intended to serve the daily or frequent trade or service needs of immediately surrounding medium to high density population. Such establishments include groceries, coin-operated laundry and dry-cleaning agencies, tailoring and dressmaking shops, beauty shops, barber shops, and the like. Specifically excluded are gas stations and repair garages, drive-in eating and drinking establishments and liquor establishments
28. COURT: An open occupied space other than a yard on the same lot with a building and bordered on two (2) or more sides by such building.
29. DISTRICT: A section, or sections, of the incorporated area of the city for which the regulations and provisions governing the use of buildings and land are uniform for each class of uses permitted therein.
30. DWELLING: A building, or portion thereof, designed exclusively for residential occupancy including one-family, two family and multiple family dwellings, but not including hotels, boarding or rooming houses.
31. DWELLING UNIT: One room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities
32. DWELLING, ONE-FAMILY: A detached building designed exclusively for occupancy by not more than one (1) family.
33. DWELLING, TWO-FAMILY: A building containing two dwelling units designed exclusively for occupancy by not more than two (2) families living independently of each other.
34. DWELLING, MULTIPLE; A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided. Condominiums are considered multiple dwellings for the purpose of this ordinance.
35. DWELLING, ROW; A row of three (3) to six (6) attached one-family dwellings, not more than two and one-half (2 ½) stories in height, nor more than two (2) rooms deep.
36. ESSENTIAL SERVICES; The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground or overhead telephone, gas, electrical, steam, communication, or water transmission, distribution, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables,

fire alarm boxes, police call boxes, traffic signal, hydrants, and other similar equipment and accessories in connection therewith for the furnishing of adequate service by such public utilities or municipal departments or commissions to the residents of the City of Harvey.

37. EXTRATERRITORIAL ZONING JURISDICTION; Unincorporated lands outside the city limits of Harvey over which the City has the zoning authority.
38. FAMILY; An individual, or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons (excluding servants) who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling unit.
39. FEEDLOT; A confined area or structure used for feeding, breeding, or holding livestock for eventual sale in which animal waste may accumulate but not including barns, pens, or other structures used in a dairy farm operation.
40. FLOOD OR FLOODING; A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters and or
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
41. FLOOD HAZARD AREA; The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The flood hazard areas are identified by the Federal Emergency Management Agency in its Flood Hazard Boundary map.
42. FLOOD AREA, GROSS; The total area of all the floors of a building as measured to the outside surfaces or exterior walls and including halls, stairway, elevator shafts, attached garages, porches, and balconies.
43. FRONTAGE; All property on one (1) side of a street between two (2) intersecting streets, or natural barrier.
44. FUNERAL HOME; A facility used for pre-burial preparation of human cadavers including but not limiting to a mortuary, chapel, viewing area, vehicular storage, parking, but not including a crematorium or burial facilities.
45. GARAGE, PRIVATE; An accessory building or portions of a main building on the same lot and used only for the storage of private passenger motor vehicles.
46. GARAGE, PUBLIC; A building, other than a private garage, used for the care, repair, or maintenance of automobiles, or where such vehicles are parked or stored for recuperation, hire or sale within the structure, but not including auto wrecking establishments or junk yards.

47. GRADE; The established elevation of the curb in front of a building measure at the center of such front. Where no curb grass has been established, the City Engineer shall establish such curb level, or a equivalent for the purpose of this ordinance. The elevation shall be the minimum of 1/4 inch per foot from the front of the house to the curb line. The property owner must provide drainage from the sides of the structure away from the lot to the street to restrict the flow onto the adjacent lots to prevent any adverse effect or damage to said lots.
48. GROUP HOME; Any community residential facility, foster home, family care facility, or other similar home for developmentally disabled persons.
49. GUEST HOUSE; A structure for human habitation, containing one or more rooms with bath and toilet facilities, but not including a kitchen or facilities which provide a complete housekeeping unit.
50. HAZARDOUS MATERIALS; Any solid, liquid or gaseous matter that may pose a substantial present or potential hazard to the land and water ways and their inhabitants which must be handled, used, stored, transported and disposed of by means of equipment, personal and regulations specified by State Statute and municipal ordinances. Such materials may be lethal, explosive, radioactive, flammable, chemically poisonous or dangerous in some other manner because of their chemical and physical content. Such materials shall be further defined and governed according to applicable State Statute.
51. HAZARDOUS WASTES; Any waste or combinations of wastes which post a substantial present or potential hazard to human health or living organisms because such wastes are nondegradable or persistent in nature or because they can be biologically magnified, lethal or may otherwise cause or tend to cause detrimental cumulative effects.
52. HEIGHT, BUILDING; The vertical distance from the established average sidewalk grade or street grade, or finished grade at the building line, whichever is the highest, to the highest point of a structure.
53. HOME OCCUPATION; An occupation conducted in a dwelling unit, provided that:
1. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
 2. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation. No article shall be sold or offered for sale except such as may be produced on the premises by members of the immediate family.

3. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard
4. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

Clinics, doctor's offices, hospitals, barber shops, beauty parlors, dress shops, millinery shops, real estate offices, tea rooms, tourists homes, animal hospitals, kennels, among others shall not be deemed to be home occupation.

54. HOSPITAL or SANITARIUM; An institution open to the public in which sick patients or injured persons are given medical or surgical care; or the care of contagious or incurable diseases.
55. HOTEL; A building in which lodging, with or without meals, is provided and offered to the public for compensation, and which is open to transient guests. Hotels include motels, but not include group dwellings as defined herein.
56. IN-HOME APARTMENT; A self-contained dwelling unit with no more than two bedrooms built within an existing residential structure which was not originally designed as a two-family dwelling unit.
57. INDUSTRIAL; Industrials uses which generate large or small volumes of vehicular traffic or create obnoxious sounds, glare, vibrations, dust, odor or smoke.
58. INSTITUTION; A building occupied a nonprofit corporation, or a nonprofit establishment, for public or semi-public use.
59. KENNEL; Any place where any number of dogs are kept for the purpose of sale or in connection with boarding, care, or breeding, for which any fee is charged.
60. LABORATORIES; A place devoted to experimental study, such as testing and analyzing. Manufacturing, is not to be permitted within this definition.
61. LOADING SPACE; An off-street space or berth on the same lot with the building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, which abuts upon a street, alley, or, other appropriate means of access.
62. LODGING HOUSE; A building with not more than five (5) guest rooms where lodging is provided for compensation, pursuant to previous arrangement, but not open to the public or transients.

63. LOT: A parcel of land occupied or suitable for occupancy by one main building or use, with an accessory building(s), including the open space required by this ordinance, and having its principal frontage upon a public street or highway.
1. A single lot of record
 2. A portion of a lot of record
 3. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record
 4. A parcel described by metes and bounds provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirement of this ordinance.
64. LOT COVERAGE: The amount of land covered or permitted to be covered by principal buildings, accessory buildings, and required parking spaces.
65. LOT DEPTH: The mean horizontal distance between the front lot line and the rear lot line, or the distance between the midpoint of the front lot line and the midpoint of the rear lot line.
66. LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots, the front shall be the shorter lot boundary along the street. For through lots, both sides of the lot adjacent to the streets shall be considered frontage and shall be provided as indicated under YARDS in this section.
67. LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the Wells County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded, prior to the effective date of this ordinance.
68. LOT, REVERSE CORNER: A corner lot, the seat of which abuts upon the side of another lot whether across an alley or not.
69. LOT TYPES:
1. **Corner Lot**: A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the lot meet at the interior angle of less than 135 degrees. See lots marked A. below.
 2. **Interior Lot**: A lot other than a corner lot with only one frontage on a street. See lots marked B. below.
 3. **Through Lot**: A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots. See lots marked C below.

4. **Reverse Frontage Lot:** A lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in the area. See lots marked D below. A reversed frontage lot may also be a corner lot (A-D), and interior (B-D), or a through lot (C-D).

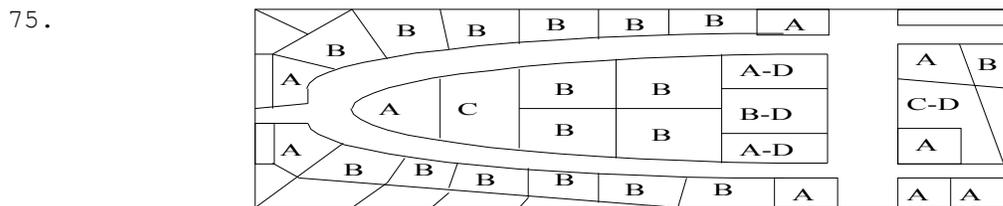
70. **LOT WIDTHS:** The distance between the side lot lines, measured along the setback line as established by this ordinance, or if no setback line is established, the distance between the side lot lines measured along the street lines.

71. **MOBILE HOME:** A detached residential dwelling unit designed for transportation after fabrication on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for minor and incidental unpacking and assembly operations, location on jacks, or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer is not considered a mobile home.

72. **MOBILE HOME - CLASS A:** A residential dwelling unit, transportable in two sections which are fastened together to form a complete living unit that is built on permanent chassis. It is at least twenty-four (24) feet across at its narrowest section.

73. **MOBILE HOME - CLASS B:** A residential unit, built on a permanent chassis, which may be reasonably equipped with wheels for transporting from place to place that does not have any specific size requirements.

74. **MODULAR HOMES:** Structures that are in two or more pieces and assembled together on a basement, cement blocks, concrete foundation or some other permanent foundation for occupancy.



NONCONFORMING USE: Any building, structure or land lawfully occupied by a use or lawfully situated at the time of the passage of this ordinance or amendments thereto, which does not conform after the passage of this ordinance, or amendments thereto, with the regulations of this ordinance.

76. NON-FARMER RESIDENCE: A dwelling which is to be situated on a parcel of land and whose initial occupant is or may be a non-farmer or any other person who does not intend to farm such parcel or engage in upon such associated with farming and ranching.
77. NURSING HOME or REST HOME: A private hospital for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not including facilities for the treatments of sickness or injury, or for surgical care.
78. PARKING AREA-PUBLIC: An open area, other than a street, used for the temporary parking of automobiles, and available for public use whether free, for compensation or as an accommodation for clients or customers that do not encroach upon or block public right-of-way or private driveways.
79. PARKING SPACE: An area enclosed in the main buildings, or an accessory building, or unenclosed, sufficient in size to store one (1) standard automobile, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.
80. PORCH: A roofed entrance to a building projecting out from the wall, or walls of the main structure and commonly open to the weather in part.
81. REPAIR SHOPS: Small repair shops which service business machines, bicycles, and household appliances.
82. RIGHT-OF-WAY; The area, either public or private, over which the right of passage exists. The right-of-way shall not to be considered as land area when computing lot size.
83. RESTAURANT: A public eating establishment at which the primary function is the preparation and serving of food.
84. ROOMING HOUSE: Any dwelling in which more than two (2) persons, either individually or as families, are housed or lodged for hire, with or without meals.
85. SALVAGE YARD: A place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled; including auto wrecking yards, house wrecking yards, used material yards; but not including pawn shops, antique shops, purchase or storage of used furniture and household equipment, or the placing of used cars in operable condition.
86. SERVICE STATION: An establishment consisting of a building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced; such service shall not include tire recapping, body repairs, or major overhaul.
87. SETBACK: The required distance between every structure and the front lot line, as prescribed in the district regulations of this Ordinance. The setback line shall be the same as the property line, however, the property line is not the same as the curb line or the location of the sidewalk or the sidewalk line.

88. SIGNS, OUTDOOR ADVERTISING; Any card, cloth, paper, metal, painted glass, wood, plaster, stone or other sign of any kind or character whatsoever, placed for outdoor advertising on the ground, or on any tree, wall, bush, rock, post, fence, building, structure, or things whatsoever. The term "place" as used in the definition of "outdoor advertising sign" and "outdoor advertising structure" shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving, or other fastening, affixing or making visible in any manner whatsoever.
89. SOLID WASTE; Any garbage, refuse, residue, sludges, hazardous waste putrescible waste, and other discarded solid materials resulting from industrial and commercial operations as well as from communities.
90. STORY; That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof.
91. STREET LINE; The right-of-way line of a street.
92. STRUCTURE; Anything constructed or erected, which requires location on the ground or attached to something having location on the ground.
93. STRUCTURAL ALTERATIONS; Any change which would prolong the life of the supporting members of a building or structure such as bearing walls, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.
94. SUBSTANTIAL IMPROVEMENT; Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:
1. Before the improvement or repair is started, or
 2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, dimensions of the structure.
 3. This term does not, however, include either:
 - a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

- b. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.
95. TOURIST, COURT; A group of attached or detached buildings containing individual sleeping or living units, designed for or used temporarily by automobile tourists or transients, with garage attached or parking space conveniently located to each unit, including automobile courts, motel or motor lodges.
96. TOURIST HOME; A dwelling in which overnight accommodations are provided for transient guests.
97. TRAILER, AUTOMOBILE; A vehicle without motor power, designed to be drawn by a motor vehicle and to be used for human habitation, or for carrying persons or property, including a trailer coach or house trailer
98. TRANSMISSION FACILITY; Includes any of the following:
1. An electrical, telephone, or cable TV transmission line and associated facilities.
 2. A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas or liquid hydrocarbon products for public commerce.
 3. A liquid transmission line and associated facilities designed for or capable of transporting water.
99. TRAVEL TRAILER; Means any portable unit designed to be used as a temporary dwelling for travel or recreational purposes. The term travel trailer includes the following:
1. An independent travel trailer, which is a travel trailer containing toilet and lavatory facilities.
 2. A dependent travel trailer, which is a travel trailer containing either toilet or lavatory facilities or having neither facility.
100. TOWNHOUSE; A single-family dwelling unit occupying its own lot but attached to one or more units by a common wall or walls. Where townhouses are not provided with individual subdivided lots at the time of construction, they shall be considered a multiple family dwelling for the purposes of this ordinance.
101. USE; The purpose for which land or building thereon is designed, arranged, or intended, or for which it is occupied, maintained, let or leased.
102. VARIANCE; A relaxation of the strict terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. (As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and

open spaces, establishment or expansion of a use otherwise prohibited shall not be allowed by variance be granted because of the presence of nonconformities in the zoning district or used in an adjoining zoning district.)

103. YARD; A required open space other than a court that is unoccupied and unobstructed by any structure or portion of a structure for 30 inches above the general ground level of the graded lot upward. However fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements.
104. YARD, FRONT; A yard extending between side lot lines across the front of a lot, the depth of which is the least distance between the front lot line and the front building frame. In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of 30 inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights 30 inches and 10 feet.
105. YARD, REAR; A yard extending across the full width of the lot from side lot lines, the depth of which is the least distance between the rear lot line and the rear face of the principal building. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.
106. YARD, SIDE; All that part of the yard lying between the main building and a side lot line and extending from the required front yard (or from the front lot line if there is no required front yard) to the required rear yard. In the case of through lots, side yards shall extend from the rear lines of the front yards required. The depth of the side yard shall be the least distance from the sides of the principal building to the side lot line.
107. YARD, SPECIAL; A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neighbor the term "side yard" nor the term "rear yard" clearly applies. In such cases, the administrative official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

The diagram (**DIAGRAM A PAGE 6 - 17A**) illustrates the location and methods of measuring yards on rectangular and non-rectangular lots.

SEE DIAGRAM A on Page 6 - 17A

YARDS:

Front: 25 Feet

Side: 7.5 Feet
Rear: 25 Feet
Special: *Unusual Feet, change to conform

LOCATION AND MEASUREMENTS OF YARDS ON LOTS

The illustration on DIAGRAM A on Page 6 - 17A assumes a Front Yard Depth required at Twenty-Five Feet (25'), a Side Yard Width of Seven and a Half Feet (7.5'), and Rear Yard Depth of Twenty-Five Feet (25'). Note that at * a Special Yard is shown, indicating where usual Side or Rear Yard Terminology would be difficult to apply, but the purpose of the Yard is clear.

108. ZONE DISTRICT; A portion, area or section of the city for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land, and open spaces about buildings as herein established..

6.0401 Establishment of Districts

The City is hereby divided into the following zones, or districts:

1. R-1 - Single-family residential district
2. R-2 - Multiple-family residential district
3. MH - Mobile Home district
4. C - Commercial district
5. IHC - Industrial/Heavy Commercial district
6. PUD - Planned Unit Development district
7. A - Agricultural

6.0402 Official Zoning Map

1. The established zones or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and is declared to be a part of this Ordinance.
2. The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Auditor, and bearing the seal of the City under the following words; "This is to certify that this is the Official Zoning Map referred to in Section of the City of Harvey, North Dakota, " together with the date of adoption of this Ordinance.
3. If, in accordance with the provisions of this ordinance and Chapter 40-47 of the North Dakota Century Code, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Commission certifying such changes. No amendment to this ordinance which involves matter portrayed on the Official Zoning

Map shall become effective until such change has been made on said map and the amending ordinance duly published.

4. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this ordinance.
5. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the Office of the City Auditor shall be the final authority as to the current zoning status of land and water areas, buildings, and structures in the City.

6.0403 Replacement of Official Zoning Map

1. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature of the number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the mayor, attested by the City Auditor and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted as part of Ordinance No. 211 of the City of Harvey, North Dakota.
2. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

6.0404 Rules for Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as following railroad lines shall be construed to be a midway between the main tracks.
4. Boundaries indicated as approximately following city limits shall be construed as following such city limits:
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center

line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

6. Boundaries indicated as parallel to or extensions of features indicated in subsection (1) through (5) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (1) through (7) above, the Board of Adjustment shall interpret the district boundaries;
8. Where a zoning district boundary line divides a lot which was a single ownership at the time of passage of this Ordinance, the Board of Adjustment may permit, as a permitted conditional use, the extension of the regulation of either portion of the lot not to exceed fifty (50) feet beyond the zoning district line into the remaining portion of the lot.
9. Whenever any street, alley, or other public way is vacated in the manner authorized by law, the zoned district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all included in the vacation shall then and henceforth be subject to all regulations of the extended district.
10. Where uncertainty exists as to the exact boundary line of a district, the same shall be determined by the Board of Adjustment and a record shall be kept thereof.

ARTICLE 5 - General Provisions

6.0501 General Provisions

1. All streets, alleys and railroad right of way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, alleys or railroad right of way. The Center line of a street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.
2. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, to exceed the height limit land be used for any purpose other than as permitted in the district in which the building or land is located.
3. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, to exceed the height limit herein established for the district in which the building is located, except that penthouses or roof structures for housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire, or parapet walls, skylights, towers, steeples, belfries, flag poles, cupolas, chimneys, smokestacks, radio and television aerials or antennas, water tanks, solar energy collectors and equipment used for the mounting or operations of such collectors, or similar

structure placed above the roof level and not intended for human occupancy may be erected above the height limits herein prescribed. No such structure may be erected to exceed by more than 25 ft the height limits of the district in which it is located, except the aerials are not to exceed 60 feet from the ground level, provided said aerial or antenna is attached to the building or erected in the rear yard area.

Every part of a yard or court shall be open and unobstructed by any building or structure, from its lowest point upward, except as follows:

- a. Awnings, balconies, sills, cornices, buttressed, and eaves may project not more than five (5) feet over or half the distance of the required side yard, whichever is less.
 - b. Structures used ornamentally or for gardening or for private recreation purposes, including decks and structures for essential services, all accessory to and customarily incidental to the principal use, are permitted in yards and courts, provided that a side yard strip three (3) feet in width adjoining the side line of the lot shall be unobstructed by any structure or feature, except a fence or retaining wall.
 - c. Steps to building entrances may not extend more than one foot onto a sidewalk where such sidewalk is five (5) feet in width or less; nor shall it extend more than fourteen (14) inches onto a sidewalk where such sidewalk is over five (5) feet in width.
 - d. Uncovered porches may not extend more than five (5) feet into any required front yard or rear yard and not more than three (3) feet into a required yard or court.
 - e. Open work fire balconies and fire escapes may extend not more than five (5) into a required yard or court.
 - f. Chimneys and flues may extend not more than two (2) feet into a required yard or court.
4. No building or structure other than a building for conditional use shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which the building is located.
 5. No space which for the purpose of a building or dwelling group has been counted or calculated as part of a side yard, rear yard, front yard, court or other open space required by this ordinance may, by reason of change in ownership or otherwise, be counted or calculated to satisfy or comply with a yard, court, or other open space requirement to or for any other building.

Any open terrace, but not including a roofed-over porch or terrace may occupy a front yard, provided the unoccupied portion of the

front yard, provided the unoccupied portion of the front yard has a depth of not less than fifteen (15) feet.

The minimum yards or other open space, including lot area per family required by this ordinance for each and every building existing at the time of passage of this ordinance, or each building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building.

6. Every building hereafter erected or structurally altered to provide dwelling units shall be located on a lot as herein defined. In no case shall there be more than one such building on one lot unless otherwise provided in this ordinance.
7. Any separate tract, the title of which was of record at the time of the adoption of this ordinance, that does not meet the requirement of the ordinance for yards, courts, or other area of open space, may be utilized for single residential purposes provided the requirements for such yard or court (or lot) area, width, depth or open-space, is within 75% of that required by the terms of this ordinance. The purpose of this provision is to permit utilization of recorded lots which lack adequate width or depth as long as reasonable living standards can be provided.
8. No building shall be constructed or erected upon a lot or parcel of land, which does not abut upon a public street or permanent easement of access to a public street, which easement shall have a minimum width of twenty-five (25) feet unless an easement of lesser width was of record prior to the adoption of this ordinance.
9. No wall, fence or shrubbery shall be erected, maintained or planted on any lot which unreasonably obstructs or interferes with traffic visibility on a curve or at any street intersection.
10. No residential structure shall be erected upon the rear of a lot or upon a lot with another dwelling, except that in a two-story garage with living quarters upon the second floor, such quarters may be occupied by a servant (and his family) of the family occupying the main structure. There may also be constructed a guest house (without kitchen) or rooms for guests within an accessory building, provided such facilities are used for occasional housing of guests of the occupants of the main structure and not by permanent occupancy of others as a housekeeping unit.
11. Nothing in this ordinance shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction has been lawfully begun prior to the adoption of this ordinance, and upon which building actual construction has been diligently carried on, and provided further that such building shall be completed within two (2) years from the date of passage and publication of this ordinance.
12. An area indicated by description in this ordinance or on the official zoning map as a public park or recreation area, public

utility area, cemetery, public school site, or similar public open space, shall not be used for any other purpose. When the use of the area is discontinued it shall automatically be zoned R-1, one family district, until otherwise zoned.

13. Any lot, street, alley or structure vacated shall be zoned the same as the adjacent properties and the same restrictions for that zone shall apply.
14. Any and all areas annexed to the city, shall, upon such annexation be zoned agricultural until otherwise zoned. When a subdivision is added to the city, the Planning and Zoning Commission shall request the dedication or reservation of such areas or sites of a character, extent or location suitable to the needs created by such development for schools, parks and other neighborhood purposes for public use.
15. An area indicated by description in this ordinance as "reserved for essential services" shall be reserved exclusively for public water mains, public sewage lines, or public electric, gas or telephone utilities, or other essential services, in, upon, across or over such area.
16. Locations of transmission lines shall be submitted to the City Auditor on a plat or map with any changes filed as they are made. The same shall be required for water and sewer lines. Such locations shall be submitted at the time the building or moving permit is secured or within ten (10) days after installation of said transmission and/or water and sewer lines.
17. New sidewalk installations shall conform to existing sidewalks. In areas where no sidewalks exist, new installations shall be 5 feet in width and shall be 10 feet from the curb line.
18. Metal structures erected in residential areas shall have a sidewall no greater than 10 feet. The structure must conform with the main structures in the surrounding area. Wood pole type buildings will be allowed in residential areas as long as the following restrictions are met:
 - a. The building must have colored steel on the side walls and the roof with the steel on the side walls extending to the ground level.
 - b. The building must have trim on the corners and around the doors and windows.
 - c. The building must have overhead doors not sliding doors.
 - d. The building must be constructed of new materials not used.
19. Metal structures in a commercial or light industrial zoning must have all colored steel sides and roof if it abuts upon a residential district.

ARTICLE 6 - R-1 Single Family District

6.0601 Statement of Intent

To establish and preserve low density residential neighborhoods, wherein certain educational, religious, recreational and other activities compatible with residential development are permitted.

6.0602 Use Regulations

Uses permitted in this district shall include the following:

1. One family dwellings.
2. Home occupations as provided in this ordinance.
3. Truck gardening and other horticultural uses where no building is involved, and when not operated for profit.
4. Confidential uses, subject to the provisions of applicable sections of this ordinance.
5. Temporary buildings and uses for construction purposes for a period not to exceed one (1) year.
6. Accessory buildings, provided they shall be located as required in applicable sections of this ordinance.
7. One sign on each lot not exceeding twelve (12) sq. ft. in area, pertaining to the lease or sale of the building or premises upon which the sale is located.
8. Automobile parking space to be provided as required in applicable sections of this ordinance.
9. Travel Trailers (Campers), and Mobile Homes are not permitted to be hooked upon and/or parked in a yard unless a conditional use permit is granted by the City Council.

6.0603 Height

No building shall be erected or enlarged to exceed a height of two (2) stories, nor shall it exceed twenty-eight (28) feet in height.

6.0604 Area

No building shall be erected, nor shall any existing structure be enlarged or altered unless the following yards and lot areas are provided and maintained in connection with such building, structure or enlargement:

1. Front Yard: Each lot upon which a dwelling is constructed shall have a front yard of not less than twenty-five (25) feet. Where lots comprising forty (40) percent or more of the frontage between two intersecting streets are developed with buildings having front yards with a variance of not more than fifteen (15) feet in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage. In no case shall a front yard or more than fifty (50) feet be required.
2. Side Yard: On interior lots there shall be a side yard on each side of a main building of not less than seven and a half (7 ½), and a

combined total of side yards of not less than fifteen (15) feet. On corner lots the side yard requirement shall be the same as for interior lots, except that there shall be maintained a side yard of not less than ten (10) feet on the side adjacent to the street which intersects the street upon which the building or structure maintains frontage, and except in the case of a reversed corner lot, where there shall be maintained a setback from the side street of not less than fifty (50) percent of the front yard required on the lots in the rear of such corner lots, but such setback need not exceed fifteen (15) feet. No accessory building on such reverse corner lot shall project beyond the front yard required on the adjacent lot to the rear, nor be located nearer than seven and a half (7 ½) feet to the side lot line of said adjacent lot.

3. Rear Yard: There shall be a rear yard having an average depth of not less than twenty-five (25) feet.
4. Lot Coverage: Not more than thirty-five (35) percent of the area of a lot may be covered by main buildings, structures or accessory buildings.
5. Lot Area: Every dwelling hereafter erected or structurally altered shall be on a lot having an area of not less than seven thousand (7000) sq. ft., and a width at the established building line of not less than fifty (50) feet, provided, however, that where a lot having less area and width, but which is a single tract and the title thereof has been recorded before the passage of this ordinance, said tract may be improved with a single-family dwelling provided all yards and open spaces are within seventy-five (75) percent of those required by the terms of this ordinance, and provided further that the total lot area is not less than five thousand (5000) sq. ft.
6. Accessory Buildings: Accessory buildings shall not encroach upon the front yard. They may encroach upon the side yards provided no buildings are closer to the lot line than seven and a half (7 ½) feet, provided further, that on a corner lot, accessory buildings shall not encroach upon the front or side yards adjacent to the abutting streets.

6.0605 Dwelling Standards

1. Every one-story dwelling hereafter erected in any R-1, one-family district, shall have a total ground floor area of not less than nine hundred sixty (960) sq. ft. measured from the outside of the exterior walls, including utility rooms, but excluding cellars, basements, open porches, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, except that rooms intended for such purposes which are "roughed in" and are to be completed in computing such ground floor areas.
2. Every dwelling of more than one-story hereafter erected in any R-1, one-family district, shall have a total floor area, measured from the outside of the exterior walls, of not less than twelve hundred (1200) sq. ft., including utility rooms, but excluding

cellars, basements, open porches, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, except that rooms intended for such purposes which are "roughed in" and are to be completed within a reasonable time may be considered in computing such ground floor area.

6.0606 Construction Standards

No dwelling or other structure not situated, located or placed within the R-1, one-family district, prior to the effective date of this ordinance, shall be situated, located or placed within such district, unless the same shall be of entirely new construction. All footage restrictions are from the property line.

ARTICLE 7 - R-2 Multiple Family District

6.0701 Statement of Intent

To establish and preserve residential neighborhoods which provide for multiple family types of residential developments, and within subdivisions compatible with such residential development.

6.0702 Use Regulations

Uses permitted in this district shall include the following:

1. Any use permitted in the R-1 Family district.
2. Two-family dwelling structures.
3. Row dwellings containing three (3) or more family units.
4. Multiple dwellings and apartments.
5. Boarding and lodging houses.
6. Automobile parking spaces to provided as required in applicable sections of this ordinance.
7. Travel Trailers (Campers), and Mobile Homes are not permitted to be hooked upon and/or parked in a yard unless a conditional use permit is granted by the City Council.
8. Conditional uses subject to the provisions of applicable sections of this ordinance.

6.0703 Height

No building shall hereafter be erected or structurally altered to exceed three (3) stories, nor shall it exceed thirty-two (32) feet in height.

6.0704 Areas

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected or maintained unless the following

yards and lot areas are provided and maintained in connection with such structure or enlargement.

1. Front Yard: There shall be a front yard of not less than twenty-five (25) feet.
2. Side Yard: On interior lots there shall be a side yard on each side of a main building of not less than seven and a half (7 ½) feet, and a combined total of side yards of not less than fifteen (15) feet. On corner lots the side yards of the intersection street side shall be not less than ten (10) feet, except in the case of a reversed corner lot where there shall be a side yard on the street side of the corner lot of not less than fifty (50) percent of the front yard required on the lots in the rear of such corner lot. No accessory building on such reverse corner lot shall project beyond the front yard line required on the key lot in the rear, nor be located nearer than seven and a half (7 ½) feet to the side of lot line of such key lot.
3. Rear Yard: There shall be a rear yard of not less than twenty-five (25) feet for interior lots nor less than fifteen (15) feet for corner lots.
4. Lot Coverage: Not more than thirty-five (35) percent of the area of a lot may be covered by buildings or structures excepting dwelling structures over four (4) units when the coverage may be sixty (60) percent of the lot area.
5. Lot Area: Every building hereafter erected or structurally altered as a multiple dwelling, apartment or row dwelling of more than two (2) dwelling units shall provide a lot area per dwelling unit of not less than fifteen hundred (1500) sq. ft. No building hereafter erected or structurally altered in the R-2, multiple family district, shall have a total lot area of less than six thousand (6000) sq. ft., nor a lot width of less than four thousand (4000) sq. ft. and a width at the established building line of not less than forty (40) feet.
6. Courts: No inner court, or courts completely surrounded on all sides by a building shall be permitted. Outer courts are permitted, provided the depth of the court is no greater than the width of the court.
7. Accessory Buildings: Accessory buildings shall not encroach upon the front yard. They may encroach upon the side yards provided no buildings are closer to the lot line than seven and a half (7 ½) feet, provided further, that on a corner lot, accessory buildings shall not encroach upon the front or side yards adjacent to the abutting street.

6.0705 Dwelling Standards

All multiple family dwelling units hereafter erected, converted or reconstructed, shall contain not less than four hundred (400) sq. ft. of usable floor area per unit, exclusive of basements, cellars, unfinished attics, open porches or garages.

6.0706 Construction Standards

All footage restrictions are from the property line.

ARTICLE 8 - MH Mobile Home District

6.0801 Statement of Intent

To encourage the placement of, and the continued use of land for single-family mobile home dwellings located within mobile home parks; to prohibit commercial and industrial uses of the land; and to encourage suitable and proper development of mobile home parks.

6.0802 Definition

For the purposes of this section "mobile home park" shall also mean "mobile home court".

6.0803 Uses Permitted

Uses permitted in this district shall include the following:

1. Single family mobile home dwellings when located within mobile home parks.
2. Conditional uses subject to the provisions of applicable sections of this ordinance.
3. Accessory buildings.

6.0804 Density

The maximum allowable density for all mobile home parks shall be seven (7) families per net acre.

6.0805 Lot Dimensions

1. Or single wide mobile home dwelling units, minimum lot dimensions shall be fifty (50) feet with a minimum lot area of five thousand (5000) sq. ft.
2. For double wide mobile hoe dwelling units, minimum lot dimensions shall be sixty (60) feet with a minimum lot area of six thousand (6000) sq ft.

6.0806 Lot Coverage and Placement of Mobile Homes

1. The ground area occupied by a mobile home, all utility structures, patio, and off-street parking spaces shall not exceed fifty (50) percent of the total area of the lot. In computing the ground coverage, sufficient off-street parking space to comply with applicable sections of this ordinance shall be added to actual area of the mobile home and the accessory buildings. Each lot shall be limited to one (1) attached utility structure of no more than two hundred twenty-five (225) sq. ft. and one (1) detached utility structure of no more than one hundred twenty (120) sq. ft.

2. No mobile home, storm shed or other legal attachments to said mobile home shall be located less than seven (7) feet six (6) inches from the side lot line or ten (10) feet to any rear lot line. Detached toolsheds shall be located not less than five (5) feet from the side or rear lot lines. The ends of the mobile homes shall be at least ten (10) feet apart when opposing rear walls are staggered, otherwise they shall be fifteen (15) feet apart. No portion of a mobile home, or attachment thereto, or any other structure shall be located less than fifteen (15) feet away from any property line adjacent to a public right of way.
3. All structures must be placed on foundations that are either permanent or temporary and shall be constructed of concrete or other solid material durable enough to support the maximum weight of the mobile home. Concrete blocks placed at intervals beneath the mobile home's chassis or I-beam substructure shall be considered an allowable and adequate foundation. All tires, hitches and tongues must be removed.
4. All mobile homes shall be equipped with coordinating skirts to enclose completely the underside of the mobile home.
5. Each mobile home shall be anchored to the ground for purposes of withstanding wind pressures specified for such mobile homes by the City Building Inspector prior to occupancy of the unit.

6.0807 Lot Restrictions

All clotheslines shall be placed in the rear yard.

6.0808 Mobile Home Park Requirements

1. The minimum total area of a mobile home park shall be at least one hundred thousand (100,000) sq. ft.
2. The Minimum street or roadway on which each mobile home fronts shall be at least thirty (30) feet from curb to curb in width, if automobile parking is limited to one side, and forty (40) feet from curb to curb if automobile parking is allowed on both sides. Dead-end streets shall be at least eighty (80) feet in diameter.
3. All entrances, exits, lanes and driveways between rows of mobile homes shall be adequately lighted. Roadways within the parks shall be hard surfaced, either concrete or bituminized.
4. All provisions for water supply, sewage and fire protection to be provided in any mobile home park shall have been approved by the appropriate City or State officials. All mobile home units shall be provided with buried electrical and telephone service facilities.
5. Each mobile home space shall include sufficient area for off street parking and comply with applicable sections of this ordinance.

6.0809 Mobile Park Restrictions

1. No business shall be conducted in any mobile home park except upon approval by Planning & Zoning Commission and / or the City Council.
2. Existing mobile home parks shall not be enlarged or extensively altered unless such alteration complies with the provisions of this ordinance.

Mobile home park plans and layouts, All layouts for mobile home parks shall be submitted to the Planning and Zoning Commission for a determination of design efficiency prior to approval of a zoning charge request for MH district uses. All changes thereto must be approved in like manner.

All mobile home parks shall be licensed by the State of North Dakota and shall comply with its regulations and the regulations set forth by the North Dakota State Laboratories Department all other State or Federal regulatory agencies.

6.0810 Dwelling Standards

All Mobile Home dwelling units hereafter hooked up for dwelling purposes shall have proper siding, usable and not broken windows and doors, and generally shall not contain any health hazards.

6.0811 Mobile Home Subdivision

1. Description of Territory

The MH Mobile Home District shall include the following territory:

The South 745 feet of the unplatted area located in the Northeast Quarter of the Northeast Quarter (NE1/4NE1/4), in Section Thirty-one (31), in Township One Hundred Fifty (150), North of Range Seventy-two (72), West of the Fifth Principal Meridian, more particularly described by metes and bounds as follows, to-wit:

COMMENCING at a point which is the Northeast corner of said Section Thirty-one (31), Township One Hundred Fifty (150), North of Range Seventy-two (72), West of the Fifth Principal Meridian, thence running along the East Section Line of said Section 31, a distance of 1,353 feet, more or less, to a point 30 feet North of the Easterly extension of the North line of Block 1 of Hornbacher's Addition to the City of Harvey; thence West and parallel to the North line of Block 1 of Hornbacher's Addition to the City of Harvey, a distance of 693 feet; thence Northeasterly and parallel to the East line of said Section 31, a distance of 1,353 feet, more or less, to the North line of said Section 31; thence East along the North line of said Section 31 to the place or point of beginning LESS any portion lying within the existing street right-of-way for North Street, Jackson Avenue, and 4th Street, in the City of Harvey, Wells County, North Dakota.

2. Use Regulations

- a. The permitted uses are as follows:
 - 1) Mobile Home, either single wide or double wide, or modular home.
 - 2) Accessory uses which are deemed compatible with such developments by the Planning and Zoning Commission.
 - 3) Residential Garages or Utility buildings.
 - 4) Conditional Uses as approved by the Planning and Zoning Commission on a case by case basis.

3. Structural Regulations

- a. Size: Single Wide Mobile Homes shall be not less than fourteen feet (14') in width and sixty feet (60') in length. Hitches or tongues shall not be considered in determining actual length.
- b. Height: No structure shall exceed twenty feet (20') in height. Only one story or split level structures shall be allowed.
- c. Setbacks: No structure shall be placed on any lot unless the following setbacks are maintained.
 - 1) Front Yard: Each lot upon which a structure is located shall have a front yard of not less than twenty feet (20').
 - 2) Side Yard: Each lot upon which a structure is located shall have a side yard of not less than seven and one-half feet (7.5') on each side for a total of fifteen feet (15'). Each corner lot that is located at the intersection of two (2) or more public streets, shall have a side yard of not less than ten feet (10') on the side adjacent to the street which intersects the street upon which the structure maintains frontage. In such case the total side yard shall be seventeen and one-half feet (17.5') rather than fifteen feet (15').
 - 3) Rear Yard: Each lot upon which a structure is located shall have a rear yard of not less than fifteen feet (15').
- d. Lot Coverage: Not more than thirty-five (35%) percent of an area of a lot may be covered by main buildings, structures or accessory buildings.
- e. Lot Area: Every structure shall be on a lot having an area of not less than six-thousand (6,000) square feet, with a minimum width of not less than fifty feet (50').

- f. Accessory Building: Accessory Buildings shall not encroach upon the front yard. They may encroach upon the side yards provided no buildings are closer to the lot line than seven and one-half feet (7.5'), provided further, that on a corner lot, accessory buildings shall not encroach upon the front or side yards adjacent to the abutting street.

Where an accessory building is structurally attached to a main building it shall be subject to, and must conform to all regulations of this Ordinance applicable to the main building.

No detached accessory building shall be located closer than five feet (5') to any main building.

- g. Structural Standards:

- 1). Floor Area: All structures shall have a minimum square footage of eight-hundred forty (840) square feet measured from the outside of the exterior walls including additions but excluding open decks on porches, garages and other spaces that are not used frequently or during extended periods for living, eating and sleeping purposes.
- 2). Foundations: All structures must be placed on foundations that are either permanent temporary and shall be constructed of concrete or other solid material durable enough to support the maximum weight of the mobile home. Concrete blocks placed at intervals beneath the mobile home's chassis or I-beam substructure shall be considered an allowable and adequate foundation. All tires, hitches and tongues must be removed and the structure skirted with wood or wood appearing material.
- 3). Anchoring: If a mobile home has wind specification anchoring, the anchoring system used must meet or exceed such specifications. If there are no specific anchoring requirements, the mobile home shall be anchored by a system of straps connected to the I-beam chassis or substructure of the home. Such straps shall be connected to screw-type anchors or other anchoring devices in the ground.

- h. Utilities:

- 1). Underground Conductors: (Direct Burial Cable) All mobile home units shall be provided with buried electrical service facilities. No overhead distribution systems will be permitted.
- 2). Telephone Service: All mobile home units shall be provided with buried telephone service facilities. No overhead distribution systems will be permitted.

- I. Improvement of Land: All improvements of the land, including buildings and all appurtenances, thereto, shall conform to all applicable laws, ordinances, and regulations of the City of Harvey (including deed restrictions and covenants running with the land). Whenever such local standards contain more stringent provisions than any of the minimum standards of the Federal Housing Administration, the more stringent standards shall govern.

The mobile home units or subdivisions shall be subject to such fees as are established by the City Council of the City of Harvey, Wells County, North Dakota.

- j. Building Permits: No building or structure shall hereafter be erected or structurally altered until a building permit shall be issued by the City Auditor upon approval by the City Council stating that the building or structure, and the use of the land complies with all City ordinances, building codes and health regulations. Alterations concerning the existing structure costing less than One Thousand and 00/100ths Dollars (\$1,000.00) shall not require a building permit, however, such alterations must be submitted to the City Auditor for approval.
4. Fees: Fees pertaining to moving permits for moving mobile homes into the Mobile Home District shall be set at thirty and 00/100ths Dollars (\$30.00). Fees for construction of accessory buildings or additions and alterations to main structures shall be Ten and 00/100ths Dollars (\$10.00).
5. Penalty: It shall be unlawful to use or occupy any building, structure, or premises in violation of the provisions of this Ordinance. Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of its provisions shall be fined not less than Twenty-five and 00/100ths Dollars (\$25.00), nor more than One Hundred and 00/100ths Dollars (\$100.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

ARTICLE 9 - C Commercial District

6.0901 Statement of Intent

The provisions of the C district are intended to provide areas for commercial establishments to which the public requires direct and frequent access, but which are not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any other nuisance factor other than the incidental noise of the congregation of people and passenger vehicles.

6.0902 Permitted Uses

1. Retail businesses, such as general merchandise, food, liquor, hardware, furniture, and apparel store; eating and drinking establishments; and drugstores.

2. Business services, such as banks, and other financial institutions and professional offices.
3. Personal services, such as barber and beauty shops, photographic studios, laundromats, and dry cleaning establishments.
4. Entertainment, social or recreational businesses, such as bowling alleys, health clubs, theaters (excluding drive-ins), night clubs, private clubs and lodges.
5. Repair services, such as radio shops, appliance shops, upholstery shops and shoe repair shops, but not to include automobile repair.
6. Cultural and educational facilities, such as trade schools, museums, business colleges, and adult education centers.
7. Churches and schools.
8. Public / semi-public facilities, such as armories, parks, police and fire stations; telephone exchange buildings, and civic centers.
9. Medical and Dental facilities, such as clinics, hospitals, nursing or convalescent homes.
10. Funeral homes.
11. Pet shops.
12. Printing and Publishing facilities including newspapers, books, and other reading matter and radio and television stations.
13. Hotels and Motels.
14. Transportation Depots.
15. Green houses and Plant nurseries.
16. Automobile Service Stations, where motor vehicle fuels and minor automotive accessories are sold at retail and minor services for automobiles are performed, but not to include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other nuisance characteristics.
17. Parking lots.
18. On-premise Signs.
19. Essential services.
20. Multiple dwellings, including condominiums.
21. Accessory or temporary buildings incidental to the permitted use. Placement of accessory buildings on commercial property is the same as residential property.

22. Other: Uses not listed but similar to the permitted uses above and consistent with the stated purpose of this district.

6.0903 Conditionally Permitted Uses

The following use may be permitted in the commercial District subject to the conditions hereinafter imposed and subject further to review and approval by the City Council:

1. Apartments above Commercial Establishments subject to the following conditions:
 - a. Any apartment shall be provided with off street parking the same as for multiple dwellings.
 - b. Any apartment shall be provided with private access.

6.0904 Height

No building or structure shall be erected or structurally altered to exceed a height of three (3) stories, nor shall it exceed forty-five (45) feet in height.

6.0905 Area

No front or side yards shall be required except that when a building or group of buildings, abuts upon a residential district, a yard shall be provided on the side of the lot abutting the residential district. In such case, a side yard shall have a width a depth of not less than ten (10) feet. There shall be a rear yard with a depth of not less than fifteen (15) feet when abutting upon a publicly dedicated alley or public way and not less than twenty (20) feet when no dedicated alley or public way exists at the rear of the lot. The rear yard may be used for off street parking and loading as provided in section. All footage restrictions are from the property line.

6.0906 Multiple Family Structures

Multiple Family Structures shall conform to the requirements as outlines in the R-2 multiple family district.

6.0907 Curb-cutting

For every on-street parking space lost due to curb-cutting or construction, two off-street parking spaces shall be provided. No curb-cuts shall be made Lincoln Avenue in the Main Street Commercial Area".

6.0908 Commercial Property Outside Lincoln Avenue Business District

The side yard shall have a width of not less than two (2) feet on either side of the property. There shall be a rear yard with a depth of not less than fifteen (15) feet when abutting upon a publicly dedicated alley or public way and not less than twenty (20) feet when no dedicated alley or public way exists at the rear of the lot. The rear yard may be used for off street parking and loading. A front setback of not less than fifteen (15) feet.

ARTICLE 10 - IHC Industrial/Heavy Commercial District

6.1001 Statement of Intent

The provisions of the Industrial / Heavy Commercial District are intended to provide areas for commercial establishments that are relatively independent from adjacent commercial uses for spin-off business, use extensive outdoor storage or warehousing, require close access to major thoroughfares, accommodate primarily automotive-oriented customers, generate truck traffic, or have similar characteristics which make them incompatible uses in the Commercial District and more appropriate as neighbors of industrial uses; and, to establish and preserve, in a location and manner which benefits the City, industrial and related uses which are and / or nature of operation, may or may not have a significant impact on the environmental and social well being of the City and therefore require isolation from many other kinds of land uses.

6.1002 Permitted Uses

1. Manufacturing and similar type industrial operations which are consistent with the purposes of this district.
2. General warehousing and storage, ad auto-wrecking, junk or other salvage storage when completely enclosed within a solid fence.
3. Wholesale distribution facilities.
4. General commercial uses, such as full-service gas stations, eating and drinking establishments, sales of new and used motor vehicle rental, sale of construction equipment, farm implements mobile homes and recreational vehicles, and sale of lumber and other building materials.
5. Coal, sand and gravel yards.
6. Repair and service of automobiles, trucks, mobile homes, and construction equipment.
7. Contract construction services.
8. Plant nurseries and greenhouses.
9. Recreational uses which, by their nature, require large land areas to buffer them from adjoining uses, such as racetracks, drive-in movie theaters or fairgrounds.
10. Veterinary clinics with or without overnight boarding facilities.
11. Stockyards, animal slaughter, or rendering.
12. Petroleum refining or storage.
13. Grain elevators and feed mixing and grinding plants.
14. Fertilizer manufacture.

15. Acid manufacture.
16. Cement, lime or gypsum manufacture.
17. Accessory uses clearly incidental to the principal use.
18. Public buildings and Essential Services.
19. On-Premise and off-premise signs.
20. Parking lots.
21. Other: Uses not listed but similar to the permitted uses above and consistent with the stated purpose of this district and that can be operated without creating objectionable noise, odor, dust, smoke, gas fumes, or vapor.

Machine shops and metal products manufacture, when not equipped with heavy punch presses, dropforges, screw machines, riveting machines or any other equipment which may create vibration or disturbing to adjacent property owners.

6.1003 Prohibited Uses

1. Residential: dwellings, dwelling units, and residences of any type.
2. Institutional: schools, retirement, nursing, or convalescent homes.

6.1004 Areas

1. Front yards: There shall be a front yard having a depth of not less than fifty (50) feet wherein there shall be no structure of any kind, open storage of materials or equipment and the parking of vehicles.
2. Side yard: There shall be a minimum side yard of not less than fifteen (15) feet to any lot zoned for residential use.
3. Rear yard: A rear yard is not required except where a lot abuts upon a R district, in which case there shall be a rear yard of not less than thirty (30) feet, and no storage of materials or equipment, or the parking of automobiles, shall take place within the ten (10) feet abutting any residential lot or lots. All footage restrictions are from the property line.

ARTICLE 11 - PUD Planned Unit Development District

6.1101 Statement of Intent

the provisions of the PUD district are intended to apply to areas of Harvey, North Dakota which was developed, redeveloped, or renewed as integrated and harmonious unit, and where the overall design of such unit is so outstanding as to warrant modifications of the standards required under the other district regulations. These provisions are further intended to promote a more economical and more efficient use of

the land while providing a harmonious preservation of natural scenic qualities and open spaces. It is also intended that these provisions will give the developer reasonable assurance of ultimate approval before extending complete design monies while providing City officials with assurances the project will retain the character envisioned at the time of occurrence.

6.1102 Permitted Uses

Any use permitted in the R-2 district of this ordinance, subject to the criteria established by this section. In addition, non-residential uses may be permitted to the extent that they are designed or intended for the use of the residents of the Planned Unit Development.

6.1103 Ownership Requirements

An application of approval of a PUD shall be filed in the name(s) of the recorded owner(s) of property included in the development. However, the application may be filed by holder(s) of an equitable interest in such property. Before approval of a plan can be obtained, the applicant must show evidence of full ownership interest in the land (legal title or the execution of a binding sales agreement). The entire project must be in a single ownership by the time final development plan can be approved.

6.1104 Minimum Areas

The tract of land for which a PUD project is proposed shall be a minimum of 2 acres. Areas of less than 2 acres may qualify as a PUD project if the applicant can show that the waiving of this requirement is in the public interest and that at least one of the following conditions are met:

1. Unusual physical features of the site or surrounding neighborhood are such that development under a different zoning district would not conserve the unique physical features of the site or would not allow functional or environmental compatibility with the surrounding neighborhoods.
2. The site is adjacent to an area which has been developed under the provisions of a Planned Unit Development District and will contribute to the amenity and functionality of the neighborhood.
3. The site is part of an urban redevelopment and/or spot renewal program, provided it does not conflict with the nature of the surrounding neighborhood.

6.1105 Subdivision Regulations

It is the intent of this article that subdivision review be carried out simultaneously with the review of a Planned Unit Development and that the development plans submitted under this article be submitted in a form which will satisfy the requirements of the subdivision control regulations for preliminary and final plats.

6.1106 Administrative Procedure

Administrative approval is to be obtained for a PUD project at two stages:

1. The planning and Zoning Commission is to review and give preliminary approval to a Concept Development Plan for the total area of the proposed PUD District;
2. Final approval is to be given to a Detailed Development Plan by the Planning and Zoning Commission and the City Council for the total site development or for sub-areas of the proposed PUD District.

Prior to these two steps, the prospective applicant should submit to the Planning and Zoning Commission and its staff, preliminary plans and sketches and basic site information for consideration and advise as to the relation of the proposal to general development objectives to be attained in the area and as to the policies of the Commission with reference thereto.

A. Preliminary Approval of a Planned Unit Development Project:

1. The proponents of a PUD project shall submit a Concept Development Plan to the Planning and Zoning Commission.
2. The Concept Development Plan shall consist of the following:
 - a. A legal description of the property.
 - b. A statement describing the general character of the intended development.
 - c. An accurate map of the project area showing the proposed site and its proposed land uses, and the adjacent properties and their present urban or projected urban land uses.
 - d. The pattern of proposed land uses including the shape, size, and arrangement of proposed use areas, density, and environmental character.
 - e. The pattern of public and/or private streets.
 - f. Proposed open space and public sites.
 - g. Preliminary number, size, and concept of the proposed structures within each area.
 - h. An outline for the anticipated schedule and sequence of development in terms of sub-areas for the total PUD District.
 - I. Preliminary Subdivision plat.
3. Referral and Hearing:
 - a. On receipt of the application and the concept development plan, the planning commission and its

staff shall study the proposal to determine conformity with the City's Comprehensive Plan and the above requirements. This shall be done at the first popular scheduled meeting of the Planning Commission.

- b. In reviewing the plan, the Planning Commission shall determine if the proposed development is consistent with the intended purposes of the PUD District, with the Comprehensive Plan, and with the overall development of the City of Harvey, North Dakota. The design may provide for the modification of yards, setbacks, and height requirements, but the density, intensity of use, and lot coverage requirements for the district as a whole shall not be reduced below that required in the R-2 District.
- c. The Planning Commission will hold a public hearing on the Concept Development Plan, after notification of the surrounding property owners, and will notify the applicant of its decision to approve, approve with modifications, or disprove the plan.
- d. Approval of the rezoning and the related Concept Development Plan shall establish the basic right to use the area in conformity with the plan as approved, and shall be recorded as an integral component of the district regulations, but such plan is conditioned upon approval of a detailed development plan, and shall not make permissible any of the uses as proposed until a detailed development plan is submitted and approved for all or a portion of the concept development plan.

B. Final Approval of a Planned Unit Development Project.

- 1. In order to secure final approval and designation as a PUD District for a proposed site, the applicant will submit to the City Planning Commission a Detailed Development Plan of any or all of the agreed to site sub-areas.
- 2. The Detailed Development Plan for any or all PUDistrict shall consist of the following:
 - a. The final subdivision plat including lot lines, easements, public right of way, etc.
 - b. A map of the site illustrating the following:
 - 1. Size, locations, and arrangement of buildings, including building spacing, setbacks, yards, etc.
 - 2. Parking areas, private and public streets, sidewalks, other transportation facilities.
 - 3. Landscaping, screening, and final ground contours.

4. Common open spaces and / or recreation areas.
 5. Sewer, water, and other utility lines.
- c. Where applicable, a written statement outlining the ownership and maintenance responsibility of the common open spaces and recreations areas and documentation of this responsibility.
 - d. A written agreement with the City of Harvey providing that should the improvements set forth in the illustration above fail to be completed within 18 months after the initiation of construction, as provided for in Sub-section 5 below, then and in that event the City of Harvey shall be authorized to provide the installation of said improvements. The installation of said improvements shall be paid for utilization of the special assessment process, for such cases made, and the developer so involved shall, as a part of the agreement waive any rights she/he might otherwise have to protest said special assessments.
3. The proponents of the PUD project shall secure the final approval for the designated section of the PUD area from the Planning Commission and the City Commission.
 4. Upon approval of the Planning Commission and the City Council the Detailed Development Plan is attached to and is part of the ordinance establishing the zoning designation of the land. The detailed Development Plan is the document on which building permits and other City development approvals are issued. The City Building Inspector is not authorized to issue permits for improvements which are not indicated on the approval plan.
 5. Construction of the PUD shall be started within 2 years from the effective date of approval of the plan by the City Council. Failure to begin the development within 2 years shall revert to the same zoning classification which existed immediately preceding the approval of the PUD.
- C. Amendments: Any change in the Detailed Development Plan shall first be submitted for approval to the City Planning Commission, such change constitutes substantial alteration of the original plan, especially with regards to a change in land use or an increase in development density or intensity, the procedure in Section A. and B. above shall be required.

ARTICLE 12 - A Agricultural District

6.1201 Statement of Intent

To establish and preserve areas of agriculture and low intensity development that does not significantly change the existing character of the area.

6.1202 Permitted Uses

1. Agriculture, including the grazing of livestock, but feedlot operatio are prohibited.
2. Agriculture - related buildings.
3. Farm dwellings.

6.1203 Conditionally Permitted Uses

1. Cemeteries.
2. Park and recreational facilities, including golf courses.

6.1204 Dimensional Standards

1. Setbacks of main structure shall be twenty-five (25') feet away from any lot line which abuts upon a public street or right-of-way.
2. Accessory buildings shall be fifty (50') feet away from any side or rear property line and one Hundred (100') Feet away from the front property line.

ARTICLE 13 - Ball Park Addition and Millennium Addition Zoning

6.1301 Definitions

1. "Single Family Dwelling" A building containing only one dwelling unit designed to be located on a permanent foundation, and if site built, constructed in accordance with the provision of the applicable City codes governing construction; or if manufactured offsite, constructed in accordance with either the City codes governing construction or the HUD manufactured home constructions and safety standards (24 CFR 3280). All single-family dwelling units shall have minimum overall front width of twenty-four (24) feet, minimum overall depth of twenty (20) feet, and minimum main floor living space square footage of 1200 square feet, and a minimum ceiling height of seven (7) feet six (6) inches.
2. "Manufactured Home" A factory built structure which is to be used as a place for human habitation, which is not constructed with or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles and which bears a label certifying that it was built in compliance with Manufactured Home Construction and Safety Standards Act 1974 (24 CFR 3280) which became effective on June 15, 1976, promulgated by the United States Department of Housing and Urban Development.
3. "Permanent Foundation" Site built or manufactured homes shall have a permanent perimeter foundation. Permanent foundation means a standard foundation complete with concrete perimeter footings at a minimum depth of forty-eight inches (48") to the bottom of said footings. Foundation walls may be constructed of pour concrete,

masonry block or (.60) green treated lumber. Foundation walls may not be covered with vertical steel or vinyl siding as simulating a mobile home.

6.1302 Dwellings Permitted

In both the Ball Park Addition and Millennium Addition to the City of Harvey, North Dakota, the only dwellings permitted shall be single-family dwellings and either be site built homes or offsite manufactured homes, and these dwellings shall be required to have permanent foundations. Both the dwellings and the permanent foundations shall strictly conform to the definitions in 6.1301 of this Ordinance.

6.1303 Supplement to Existing Zoning Ordinance

This Ordinance regarding the Ball Park Addition and Millennium Addition does not in any way repeal the City of Harvey Zoning Ordinance, but it is a supplemental part of the Zoning Ordinance, and all of the provisions of the City of Harvey Zoning Ordinance will apply to the Ball Park Addition, and Millennium Addition unless specifically stated differently in this ordinance. For any conflicts with this ordinance and the City of Harvey Zoning Ordinance, the specific information in this Ordinance controls the general information in the Zoning Ordinance.

ARTICLE 14 - Moving Permits

6.1401 Definitions

1. "Person" shall mean an individual, partnership or corporation.
2. "Moving Permit", shall mean an order in writing issued by the City Auditor upon order and direction of the City Council granting to applicant authority to move into, out of or within, the corporate limits of Harvey, a building structure or enclosure at such time and upon such terms and conditions as the City Council may prescribe.

6.1402 Permit Required

It shall be unlawful for any person to move into, out of or within or causing to be moved into, out of or within the corporate limits of the City of Harvey any building, structure or enclosure of any kind or description whatsoever, without first obtaining a moving permit in the manner hereinafter provided.

6.1403 Application for Permit -Issuance -Requirements

1. An application for a moving permit shall be in writing, addressed to the City Council, filed with the City Auditor, and shall give information as follows:
 - a. The place from which the building, structure or enclosure is to be moved, giving the location, number and street, and lot and block number where possible.
 - b. The place or location to which it is to be moved, giving the street, lot, and block number of the location.

- c. The route of travel giving the streets over which said building, structure or enclosure is proposed to be moved.
 - d. The date and time of moving, and the estimated length of time required to move upon such streets.
 - e. A description of the building, structure or enclosure to be moved, with a minimum of three (3) photographs showing different views of the proposed item to be moved.
 - f. An agreement to be signed by the owner to the effect that the building, structure or enclosure will be altered and rebuilt to conform with the requirements of the City Building Code, Zoning and other City Ordinances.
 - g. If the building, structure or enclosure is located within the city such owner shall agree that he will remove all rubbish and materials, and fill all excavations to existing grade at the original building site, and that the sewer line will be plugged and water service shut off to the satisfaction of the City Council.
2. A moving permit shall be issued only if:
- a. The moving of said building, structure, or enclosure will not obstruct the orderly flow of traffic.
 - b. The axle loading of the moving equipment will not be over the limit designated by the City Engineer for the streets over which moving will pass.
 - c. Performance and liability bonds are posted with the City Auditor in the amount hereinafter provided.
 - d. Proper notice of such move has been given to all property owners within 300 feet of the Proposed building site. The notice shall be by certified mail or by publication in the Harvey Herald for one week, the time for such notice beginning to run on the date of first publication. Such notice shall not be less than 10 days prior to approval of the moving permit and shall state the structure to be moved, the proposed building site by legal description or street address and the date of the move.
 - e. All special assessments, including those currently assessed but not yet levied, must be paid in full before the permit will be issued.
- A moving permit shall not be issued if a petition is signed by seventy -five (75) percent of the property owners within three hundred (300) feet of the proposed building site protesting the movement of said structure.
3. If any building, structure or enclosure located outside the corporate limits of the City and to be moved into the City, the owner shall deposit with the City Auditor an amount of money

sufficient to cover the cost of the city for conducting such inspection by the City Council or Inspector designated by the Council for that purpose; including mileage, meals and salary of the inspector .

6.1404 Movers Bond Required:

1. Before issuing, a moving permit the mover shall be required to file with the-City Auditor a bond in the sum of not less than Five Thousand Dollars (5,000.00) with form thereof to be approved by the City Attorney, and the surety by the City Council, said bond to run to the City and conditioned among other things,
 - a. That the person seeking such permit will pay all damages which may result to the city , or to any person residing within the city or lawfully upon the streets or alleys of the city , as a result of the moving of such building, structure or enclosure, to either person and/or property of any person, or to the street, alley or other public property of the city , and whether such damage is the result of the person seeking such permit or his or its employees.
 - b. That the moving of such structure, and construction, improvement and alteration thereof required for compliance with the requirements and ordinances shall be completed within three (3) months after the structure has been located at its new location.
 - c. That the person to whom the permit is issued shall keep the city harmless against all liability , judgments, costs and expenses which may accrue against the city as a consequence of acts done by the mover by such moving, and further conditions of the permit issued to the mover and within the laws of the State and Ordinances of the City .

Provided, however, that in the event the applicant for a permit is an individual not regularly engaged in the business of moving buildings, structures or enclosures, who seeks to move a structure of small size and low value, either within or out of, the corporate limits of the city , as a part of a proposed plan designed and reasonably calculated, from plans submitted to the Council, to improve property , then the amount of such movers bond shall be within the discretion of the City Council, not to exceed the sum of One Thousand Dollars (\$1,000.00)

6.1405 Application: when Considered:

1. All applications for a moving permit shall be considered at a regular meeting of the City Council: the Council shall take such action as it may deem to be in the best interest of the City and the inhabitants residing within the area of the proposed location of the building, structure, or enclosure to be moved, taking into consideration the age of the structure and the compatibility of the architecture of the building, structure, or enclosure to be moved with the existing buildings, except that application for moving any building, structure or enclosure of any kind or description out of the City of Harvey may be considered and acted

upon by the City Auditor without action by the Council, subject; however, to the same considerations, conditions and provisions of this ordinance.

2. Provided; however, that an application may be considered and acted upon at a special meeting of the City Council if the applicant makes a request for a special meeting, and deposits with the City Auditor, prior to calling of such special meeting for the benefit of the City , an amount required to pay the entire costs and expenses of a special meeting.

6.1406 Permit: Form, Execution, and Fee

1. All moving permits shall be in writing upon such form as the City Council shall provide, and shall be signed by the City Auditor upon order and direction of the City Council, except as otherwise provided in Article III, Section I, with reference to permits for moving buildings, structures or enclosures out of the city .
2. The City Councilor City Auditor shall place upon the face of the permit a period of time in which all work relating to the movement of said building, structure or enclosure and required by this ordinance must be completed. Said period of time shall be a reasonable period of time in light of all the circumstances, when good cause appears.
3. The period of time required by Section II, may be extended for a period not to exceed 90 days by the City Councilor City Auditor upon application by the person and shall be considered in the same manner as the original application.
4. Hookup to City utilities shall not be allowed until all conditions contained in the permit or notice granting the permit and all applicable State Laws and Ordinances of the City of Harvey are complied with.
5. The application for a permit to move a building shall be accompanied by a permit fee in the amount of thirty dollars (\$30.00) for structures of five hundred (500) square feet or less, and sixty dollars (\$60.00) for a structure of more than five hundred (500) square feet, as calculated from the outside foundation dimensions of entire structure. A charge of \$15.00 for storage sheds of 120 square feet or less., \$30.00 for sheds over 120 square feet to 500 square feet. Moving of smaller storage sheds of 120 square feet or less will be up to the discretion of the City Auditors Office. Moving sheds larger than 120 square feet will fall under 6.1403(1)(e) and will need approval by the City Council with three photographs submitted. The fees charged shall be reviewed annually and may be in-creased or decreased by resolution of the Council.

A moving permit shall not be required for mobile homes which are being moved into or out of a mobile home court that has been established within the City limits.

6.1407 Damages: Liability For.

The applicant to whom a moving permit is granted, and the person in charge of moving, shall be liable for and shall pay to the City of Harvey, all damages caused to streets, trees and public buildings and property , and all damages -to private persons and property which may accrue against the City of Harvey by reason of granting a permit.

6.1408 Penalties.

Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, be subject to a fine of not to exceed \$5,000.00 dollars, or by imprisonment not to exceed 30 days, or both such fine and imprisonment within the discretion of the court.

ARTICLE 15 - Off-Street Parking and Loading Regulations

6.1501 Automobile Parking Space Required

In all districts there shall be provided at the time any building is erected, structurally altered, or converted to a different use (except as otherwise provided by this ordinance), off-street parking and loading spaces in accordance with the following requirements:

1. 1 (one) and 2 (two) family dwellings and multiple family dwellings: One parking space for each dwelling unit.
2. Hotels, Rooming houses, Clubs, and Fraternal Homes: One parking space for each two (2) guest sleeping rooms.
3. Hospitals: One parking space for each three (3) beds.
4. Tourist Homes: One parking space for each transient sleeping room offered for tourist accommodation, in addition to parking space required fro permanent residents of the building.
5. Tourist Courts and Motels: One parking space for each lodging unit.
6. Churches, auditoriums, gymnasiums, stadiums, theaters and other places of public or private assembly with fixed seats: One parking space for each three (3) seats or bench seating spaces, based upon maximum seating capacity.
7. For the purpose of this type of use, parking space already provided to meet off street parking requirement for stores, office buildings and industrial establishments or off street parking facilities provided by the municipality, lying within three hundred (300) feet of the place of public assembly, as measured along the lines of public access, and that are not normally in use between the hours of six p.m. and midnight, and are made available or other parking, may be used to meet up to seventy-five (75) percent of the total requirements of parking spaces for places of public assembly.

6.1502 Plans Approval Required

Plans for off-street parking spaces shall be prepared and submitted to the Building Official for review and approval prior to issuance of a building permit. Before approving any parking layout, the Building official shall satisfy themselves that the spaces provided are usable and meet standard design criteria. All required off-street parking spaces shall be clearly marked.

6.1503 Design Standards

1. In all residential districts, required parking spaces shall be located on the same premises as the use they serve. In other districts, they shall be located on the premises or within 300 feet distance.
2. Parking areas for one or two family dwellings shall be in the garage, in the rear side yards, or on the driveway leading to the garage only.
3. Parking areas shall be used for automobile parking only, with no sales, dead storage, repair work, dismantling or servicing of any kind permitted.
4. All uses, excluding one and two family residences, where parking access facilities are located within 20 feet of a one or two family property line shall be required to effectively screen their parking facility from the residential use. Screening may include a sight obscuring fence at least 5 feet in height or plantings of sufficient type, density, and height so as to provide year-round screening. Before a building permit shall be issued, the building official shall approve the screening proposal.
5. Off-street parking areas shall be improved with a durable hard surface, and graded to afford adequate drainage to storm sewer inlets and shall have bumper guards where needed.
6. Lights used to illuminate parking lots shall be so arranged to reflect lighting away from adjacent residences in the residential district. Such parking space shall be reserved for the sole use of the occupants of the building or lot, their customers and visitors.

6.1504 Reduction in Parking Space

Parking space required under this section may be reduced at a time when the capacity or use of a building is changed in such a manner that a new use or capacity would require less space than before the change. Such reduction may not be below the standards set forth in this section.

6.1505 Joint Use of Parking Facilities

The joint use of parking facilities may be permitted in cases where the major parking demands occur on different days of the weeks, or during different hours, provided:

1. That parking space will be available for each use in accordance with the above standards.

2. That the owners agree in writing that any subsequent sale or division of the property or change in use thereof will not interfere with the joint use of the parking facilities.

6.1506 Special Permit - Residential Parking Lot

The City Council may issue a special permit to allow a parking lot in a residential zone for the purpose of meeting the requirements of this section, subject to the following limitations:

1. Public notice must be given and public hearing held by the Board of Adjustments on the request for a special permit in the same manner in which such notice is given and such hearing is held on a request for a variance.
2. Notice must be given by registered mail to all owners of property lying within three hundred (300) feet of the land for which the special permit is sought.
3. A special permit shall not be granted unless the application shows and warrants that in the proposed development of the parking area the front and side yards will be met and maintained.

6.1507 Off-Street Loading Facilities

On the same lot with every building or part thereof, erected hereafter to be used for other than exclusive residential dwelling purposes, or as an accessory use for dwelling purposes, there shall be provided on the lot adequate space for motor vehicles in order to avoid undue interference with the public use of streets or alleys. Such space, unless otherwise adequately provided for, shall include a twelve (12) by fifty (50) foot loading space, with fifteen (15) foot height clearance.

Every lot used for commercial or industrial purposes and having a building or buildings with a total floor area of at least 10,000 square feet and every lot used for office or research purposes on which there is a building or buildings having a total floor area of at least 20,000 square feet, shall be provided with an off-street loading space. An additional off-street loading space shall be required for all buildings exceed 100,000 square feet. Loading or unloading area shall not be considered as parking areas.

ARTICLE 16 - Additive Provisions

6.1601 Accessory Buildings

1. Where an accessory building is structurally attached to a main building it shall be subject to, and must conform to all regulations of this ordinance applicable to the main building.
2. An accessory building may not be located nearer than seven and a half (7 ½) feet to any interior lot line, and not nearer than five (5) feet to the rear lot line. In the event access into the accessory building is from the alley, a minimum of 20 feet is required from the rear lot line to the accessory building.
3. No detached accessory building shall be located closer than ten (10) feet to any main building.

4. No detached accessory building in any residential district shall exceed one story or 14 feet in height.
5. No detached accessory building shall be erected in any re-required yard, except a rear yard.
6. In no instance shall an accessory building be located within a dedicated easement right-of-way.

6.1602 Signs

Any publicity displayed sign, symbol or notice on premises to advertise the business there transacted, or name of person or firm conducting said business on premises or directing to some other locale, shall be regulated as follows:

1. In residential districts the following signs shall be permitted:
 - a. For each dwelling unit, one lighted name plate, not exceeding one square foot in area, indicating the name of the occupant.
 - b. For a structure other than a dwelling unit, one identification sign not exceeding ten (10) sq. ft. except a church bulletin board which does not exceed eighteen (18) sq. ft.
 - c. For the purpose of orientation, directional signs when established by the city, not exceeding four (4) sq. ft.
2. In a commercial district, the following signs shall be permitted.
 - a. Any sign which pertains to a use conducted within the main building.
 - b. Directional signs permitted as in residential districts.
 - c. Signs when attached to the building shall be fully supported by the building and the sign shall project no closer than two (2) feet to the curb line.
 - d. Signs when detached from the structure shall be erected no closer than two (2) feet from the curb line.
 - e. In no case shall a sign be permitted which requires the use of city property for any type of support. This means that signs, fliers, posters, etc. shall not be attached to any city buildings, city poles, city posts, etc.
 - f. In no case shall the sign project higher than the maximum height restrictions in the district.
3. In industrial districts the following signs shall be permitted:
 - a. Any sign advertising the occupant of a building or building complex.

- b. Directional signs permitted as in residential districts.
 - 4. The following conditions shall be observed in all of the use districts:
 - a. No sign shall be placed in a required front yard, except those directional signs established by the city.
 - b. Billboards shall not be permitted in any use district.
 - c. For the purpose of selling or renting any lot or group of lots, and/or for any existing or proposed building or group of buildings, (structure or group of structures), a billboard may be erected on approval of location, size and necessity, by the Board of Adjustments for a period of six (6) months, after which time it may be renewed for six (6) month period upon a showing of necessity by the petitioner.
- 6.1603 Fences, Walls, Hedges, and Plantings

1. Visibility at Intersection in Residential Districts:

On any corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially impede vision between a height of twenty-four (24) inches and eight (8) feet within thirty (30) feet of the intersecting curb line of the intersection.

2. Height and Location Requirements:

In any residential district, notwithstanding other provisions of this Ordinance, fences, walls and hedges may be permitted in any required yard, or along the edge of any yard, provided that no fence, wall or hedge along the sides or front edge to any front yard shall be over three (3) feet in height, and no fence, wall or hedge along any side or rear lot line shall be over six (6) feet in height. In other districts height and type of fence, wall or hedge shall be subject to approval by the building inspector.

- 3. A fence or hedge may not be located nearer than five (5) feet of the rear lot line, if adjacent to an existing or platted alley.
- 4. A fence which poses a threat to the health and safety of the public will not be permitted.
- 5. A fence shall have the same appearance on both sides.

6.1604 Sizes of Items

In no case in the City Limits shall television masts, propane tanks and/or television satellite dish receivers over thirty (30) inches in diameter be placed in the front or side yards.

ARTICLE 17 - Adult Entertainment Centers

6.1701 Adult Entertainment Center Regulations

An adult entertainment center shall be permitted only in the Industrial / Heavy Commercial District and in no other district, and then only if the center meets the following conditions:

1. The center is located no closer than 1200 feet from any pre-existing church, dwelling unit, or property zoned as residential.
2. The center excludes from its premises those persons less than 21 years of age.
3. The center displays no signs visible from the exterior of the center, except for signs identifying the center as an adult book store or adult cinema, or both.
4. The manager and owners of the center are registered with the Harvey Police Department and have provided them with such information as they reasonably may require with respect to their identities, including fingerprints and prior criminal records, if any.
5. The business premises of the center which are generally open to its patrons are open equally at the same time without charge to members of the Harvey Police Department who may wish to enter thereon provided the entry is in the course of the policeman's duties.
6. In addition to the above, a license fee shall be determined by the City Council.

ARTICLE 18 - Hazardous Materials

6.1801 Statement of Intent

The intent of this section is to provide general provisions that limit the location of service stations and bulk plants within the city limits of the City of Harvey. Such regulations are reasonably necessary for the protection of the health, welfare and safety of the public and persons using the following materials: liquefied petroleum gas, propane, propylene, butane, isobutane, butylense, heating fuel, diesel gasoline, gasohol, anhydrous ammonia and other similar petroleum products or by-products.

6.1802 Definitions

1. "Flammable Liquid" As used in this ordinance shall be construed to include gasoline, naphtha, benzene, kerosene, motor fuel, oil or any liquid having a flash point of seventy degrees (70N) Fahrenheit or below by the closed cup test method.
2. "Explosive" As used in this ordinance shall include any chemical compound and/or any chemical mixture (including gases) containing any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, friction, concussion, percussion, or detonation of any part of the compound or mixture may cause sudden generation of highly heated gases so that the resultant gaseous pressure are capable of producing destructive effects; and the term "explosives" shall

include fixed ammunition, fireworks and other manufactured articles which contain explosive as defined above, but not fuses so constructed and packed as to render explosion impossible. The term "explosion" shall include any flammable agricultural chemical used for weed or insect control or agricultural fertilizer including but not limited to anhydrous ammonia.

3. "Liquefied Petroleum Gas" As used in this ordinance shall be construed to include any material composed predominantly of any of the following hydrocarbons or mixture of them: propane, propylene, butane, (normal butane or isbutene) and butylenes.
4. "Liquefied Petroleum Gas Equipment" Shall mean all containers, apparatus, piping (not including utility distribution piping systems), and equipment pertinent to the storage and handling of liquefied petroleum gas. Gas-consuming appliances shall not be considered as being gas equipment.
5. "Vehicle" Shall include any vehicle, trailer, or semi-trailer propelled by mechanical, motor or muscular power, other than a railroad car on rails.
6. "Tank Truck" Any motor vehicle used for the transportation of explosive flammable liquids, or liquefied petroleum gases which for such purpose is provided with a tank or tank mounted on the frame or chassis of such vehicle.
7. "Tank Trailer" Any vehicle without its own motive power but drawn by a motor vehicle used for the transportation of explosive flammable liquids, or liquefied petroleum gases for which such purpose is provided with a tank or tanks mounted thereon.
8. "Tank Semi-Trailer" A vehicle of the trailer type having one or more axles and two or more wheels so designed and used in conjunction with a motor vehicle that some parts of its own weight and that of its own load rests upon or is carried by another vehicle; used for the transportation of explosives and flammable liquids or liquefied petroleum gases and for which purpose is provided with a tank or tanks mounted thereon.
9. "Anhydrous Ammonia Tank" Any vehicle, tank truck, tank trailer, or tank semi-trailer which can be used to store, haul or dispense anhydrous ammonia.

6.1803 Location

1. The location of bulk plants within the city limits of the City of Harvey shall be expressly prohibited. A one-half mile area immediately surrounding the city limits shall be designated as a buffer zone where the locations of bulk plants is prohibited.
2. Service stations shall be allowed in any multiple family, or industrial/heavy commercial district with approval of the City Council.

6.1804 Transportation of Explosives and/or Flammable Materials

1. Approved Routes: No person, firm or corporation shall drive or cause to be driven or otherwise bring any tank truck, tank trailer, tank semi-trailer, anhydrous ammonia tank, or other vehicle which transports bulk cargo explosives, flammable liquids, or liquefied petroleum gases, except fuel oil, upon any streets or portions of streets in the City so designated by ordinance, in accordance with the following designed routes:
 - a. Route 1 Highway 52 bypass lying on the South and West sides of Harvey. This route shall be designated as the primary transport route which shall be used at all times. Route 2 as described below, shall only be an alternate route, and Route 2 shall be used if the bypass is not open to traffic.
 - b. Route 2 Highway 3 entering Harvey from the South or Highway 52 from the East traveling East on Brewster Street, North on Jackson Avenue to the intersection of Jackson Avenue and North Street and West on North Street to Highway 3; or Highway 3 entering Harvey from the North or Highway 52 entering from the West traveling East on North Street to the intersection of Jackson Avenue and North Street and South to Brewster Street to Highway 3 leaving the City to the South.
2. Explosives It shall be unlawful to operate any vehicle containing explosives on any street in the municipality except in compliance with the following rules:
 - a. No such vehicles shall be so operated unless it is marked, loaded and equipped in full compliance with all laws of the State of North Dakota relating thereon.
 - b. No vehicle carrying explosives shall be parked or permitted to stand anywhere in the municipality longer than is necessary to make a lawful delivery; provided that the standing of such vehicle made necessary by mechanical trouble, traffic conditions, accident or in obedience to direction of a police officer or traffic signal shall not be considered a violation of this section.
 - c. No anhydrous ammonia tank shall be parked or permitted to stand anywhere in the municipality, provided that the standing of sch made necessary by mechanical trouble, traffic conditions, accident or in obedience to direction of a police officer or traffic signal shall not be considered a violation of this section.
 - d. All transports of hazardous materials through the city limits shall be accompanied, whenever necessary, by Police or Fire Department escorts.
3. Slippery Pavement: It shall be unlawful to operate any vehicle carrying explosives on any street in the municipality that is so slippery because of ice, snow, or from any other cause as to be unsafe for driving.
4. Warning Lights-Signs: Whenever a vehicle carrying explosives or flammable liquids is disabled in the municipality, warning flags

or lights shall be placed as required by statute; and it shall be unlawful to permit any vehicle carrying explosives to remain unattended at any such time.

5. Vehicle Repairs / Work: No work involving danger of sparks, fire, friction, or concussion which might cause an explosion shall be performed on any vehicle carrying explosives and so such vehicle shall be brought into or kept in any garage in the municipality; nor shall such vehicle carrying explosives be permitted to remain anywhere in the municipality under any circumstances.

6. Exceptions:

a. The provisions of this ordinance related to explosives shall not apply to the transportation of nitroglycerine in capsule form, or in solution in quantities not exceeding a total of one ounce avoirdupois in weight nor to the lawful transportation of properly packed ammunition in quantities not exceeding weights permitted by Federal and State statute nor to the transportation of ammunition by the armed forces or other conservators of the peace in performance of their duties.

b. The provisions of this ordinance relating to the transportation and standing of vehicles carrying explosives shall not apply to those vehicles carrying home heating fuels including fuel oil or liquified petroleum gas while operators of such vehicles are making a lawful delivery of said heating fuels to private residence or business places within the city. Further such vehicles carrying home heating fuels shall be allowed to stand at the regular place of business of the operator of such vehicles equipped to carry home heating fuels.

6.1805 Regulation of Vehicles Drivers

1. Regulations concerning tank trucks, tank trailers, anhydrous ammonia tanks, tank semi-trailers. Every tank truck, tank trailer, and tank semi-trailer operated within the corporate limits of the City shall be in good repair, clean and free from leaks.

2. If a vehicle is required to be lighted pursuant to the applicable laws of the State of North Dakota, then, every tank truck, tank trailer, and tank semi-trailer operated within the corporate limits of the City shall have suitable over-current protection with fused and automatic circuit breakers and the wiring suitably secured, insulated and protected against physical damage.

3. Regulations concerning drivers:

a. The drier, operator, attendant or helper of any tank truck, tank trailer, anhydrous ammonia tank, or tank semi-trailer, shall not leave the vehicle while it is being filled or while it is discharging through a delivery hose and when so doing, such delivery hose shall be attached to the tank truck, tank trailer, anhydrous ammonia tank, or semi-trailer, and shall be considered part of the vehicle.

- b. It shall be unlawful for the driver, operator, attendant, or helper of any tank truck, tank trailer, or tank semi-trailer to smoke or hold any lighted cigar, cigarette or pipe while such vehicle is being operated on the streets or alley of the City, or while such vehicle is being filled or is discharging or having any repairs made thereto.
 - c. The ignition on the motor of any tank truck, tank trailer, or tank semi-trailer shall be turned off during the making and breaking of hose connections and likewise turned off if the filling or discharging is done without the use of a power pump on such vehicle.
4. **Parking:** It shall be unlawful to park any tank truck, anhydrous ammonia tank, tank trailer, or tank semi-trailer on the streets or alleys of the City. Bulk transport loads shall not be parked at any time except on a bulk dealership not located outside of the City limits. Tank or truck loads in excess of 3,000 gallons shall not be parked at any time in an alley, on any street or on any premises whatsoever without the express approval of the Fire Chief or Building Inspector.
 5. **Fire Prevention Regulations:** Every tank truck, tank trailer, anhydrous ammonia tank, or tank semi-trailer and all equipment thereon shall meet the requirements of the National Fire Protection Association and the laws of the state and the regulations of the Department of Public Safety of the state, and shall be equipped with an approved fire extinguisher for extinguishing flammable liquid fires.

6.1806 General Regulations

All tanks shall be installed by a licensed installer in accordance with municipal ordinances, regulations provided by the State Fire Marshall and the standards of the American Petroleum Institute (API) and the National Fire Protection Association (NFPA).

1. **Prohibition:** It shall be unlawful to store, handle, or offer for sale any inflammable or volatile liquid in violation of any provision of this ordinance.
2. **Enforcement:** It shall be the duty of the building inspector with the cooperation of the Police Department, to see te enforcement of this ordinance.
3. **Classification:** For the purpose of the ordinance, flammable liquids are divided into three classes, according to the flash point as follows:
 - a. **CLASS I:** Liquids with a flash point at or below **25** degrees Fahrenheit (-4 Degrees Centigrade) closed cup tester.
 - b. **CLASS II:** Liquids with a flash point above that for Class I (above 25 degrees Fahrenheit), and at or below 70 Degrees Fahrenheit (21 Degrees Centigrade) closed cup tester.

c. **CLASS III**: Liquids with a flash point above that for a Class II and or at below 200 Degrees Fahrenheit (93 Degrees Centigrade) closed cup tester/

d. Representative samples of the classes of flammable liquids are:

<u>CLASS I</u>	<u>CLASS II</u>	<u>CLASS III</u>
Ether	Alcohol	Kerosene
Carbon Disulfide	Amyl Acetate	Amyl Alcohol
Gasoline	Toluol	Turpentine
Benzol	Ethyl Acetate	Fuel Oil
Naphtha	Methyl Alcohol	
Acetone		
Collodion		

4. **Small Storage limits** Storage of flammable liquids of Class I, II, III shall be in accordance with the rules governing general storage and service stations except: Not to exceed five (5) gallons of crude petroleum, benzene, gasoline, naphtha, and their compounds may be kept on hand if stored in the proper safety containers, remote from flame or open fire. Such storage must not be in any cellar, basement or pit and should be in a room with direct ventilation to the outside and preferable in an outbuilding.

5. **Pouring Into Sewer Prohibited**: No liquids of Class I, II, III or solution containing such liquids, shall be poured into any sewer or any drain which connects to a sewer system.

6. **Storage In Public Buildings Restricted**: No liquids of class I, II, shall be kept or stored in any schoolhouse, public hall, or place of assembly or in any public building except for demonstration purposes or for industrial or mechanical uses, and then, only under competent supervision.

6.1807 Regulations of Storage Tanks or Flammable and/or Volatile Liquids

All storage or bulk tanks shall be installed and bedded by a licensed installer in accordance with municipal ordinances and regulations and standards provided by the State Fire Marshall, the Environmental Protection Agency (EPA), the American Petroleum Institute (API) and the National Fire Protection Association (NFPA).

1. **Location of Tanks**: The minimum distance from individual tanks to the property line of adjoining property which is or may be built upon, shall not be less than the following.

a. Storage tanks holding 500 gallons or less shall be installed a minimum of ten (10) feet from any heated or occupied building or property line.

- b. Storage tanks holding 501 gallons or more shall be installed a minimum of twenty-five (25) feet from any heated or occupied building or property line.
- c. Single tanks holding 1,200 gallons or less may be located a minimum of ten (10) feet from any heated or occupied building and two (2) feet from any property line with the approval of the Fire Chief and the Building Inspector.
- d. Single tanks holding 1,201 gallons to 2,000 gallons may be located a minimum of twenty-five (25) feet from any heated or occupied building and five (5) feet from any property line with the approval of the Fire Chief and the Building Inspector.

2. Liquefied Petroleum Gas or Propane Tanks

- a. Any tanks within the City which are used for the storage of liquefied petroleum gas or propane shall be constructed and sited within appropriate and applicable regulations governing the construction and siting of such storage tanks.
- b. Any liquefied petroleum gas or propane tank located at a private residents or business place, other than a place of business which commercially sells liquefied petroleum gas or propane, shall used to store heating fuels only.
- c. No liquefied petroleum gas or propane storage tank located at a private residence or business place other than a place of business which commercially sells liquefied petroleum gas or propane shall be used to dispense liquefied petroleum gas or propane into a liquefied petroleum gas or propane powered vehicle or portable container capable of storing liquefied petroleum gas or propane.
- d. Notwithstanding subsection **b** and **c** above, any person desiring to utilize liquefied petroleum gas or propane storage tanks located within commercially zoned property for the purpose of dispensing liquefied petroleum gas or propane into a private or business owned liquefied petroleum gas or propane powered vehicle shall apply to the Planning and Zoning Commission for a special permit authorizing construction, siting and use of such storage tanks. Special permit Authorizing under this section shall be approved by both the Planning and Zoning Commission and the City Council before it is effective and said permit shall be subject to any regulations that the Planning and Zoning Commission and/or the City Council may impose.

6.1808 Police Powers Defined

This ordinance regarding Hazardous Materials is declared to be an exercise of the police powers directly affecting and designed to promote the peace, safety, public health, and well being of the people of this City.

6.1809 Penalty

The maximum penalty for any person, co-partnership, or corporation violating any of the provisions of the Hazardous Materials Ordinance, shall, upon conviction thereof, be a fine of not more than One Hundred Dollars (\$100.00), or imprisonment not exceeding thirty (30) days or both such fine and imprisonment, and in addition thereto the license issued hereunder may be cancelled.

ARTICLE 19 - Nonconforming Uses

6.1901 Nonconforming Uses

The lawful use of land or buildings existing at the time of the adoption of this ordinance may continue although the use does not conform to the regulations specified by this ordinance for the district in which such land or building is located, subject to the following conditions:

1. A nonconforming use of land (outside of a building) shall be made to conform to the provisions of the zoning ordinance within a period of two (2) years after the adoption of the zoning ordinance.
2. Any nonconforming use of land or building which has ceased by discontinuance or abandonment for a period of one (1) year, shall thereafter conform to the provisions of this ordinance.
3. Any nonconforming building which has been destroyed or damaged by fire, explosion, act of god, or by a public enemy to the extent of sixty (60) percent or more of its assessed valuation, shall thereafter conform to the provisions of this ordinance. Where more than forty (40) percent of the assessed valuation of the building remains after such damage, such structure may be restored to the same nonconforming use as existed before such damage.
4. No nonconforming use of a building may be moved to another part or parcel of land upon which same was conducted at the time of the adoption of ordinance.
5. No nonconforming building shall be enlarged or structurally altered except to make it conform to the ordinance. A nonconforming use of a building existing at the time of the adoption of this ordinance may be extended throughout the building provided no structural alterations, except those required by ordinance or law are made thereon, and provided that approval is granted by the City Council.
6. The use of a nonconforming building may be changed only to a use of like or similar character, or to a use conforming to the district in which the property is located.
7. Any nonconforming sign or billboard shall be removed within a period of two (2) years from the adoption of this ordinance.

8. The foregoing provisions shall also apply to nonconforming uses in districts hereafter changed or amended to this ordinance.

ARTICLE 20 - Hazardous Wastes

6.2001 Hazardous Wastes

The storage, collection, handling, transportation and disposal of solid and hazardous wastes in order to protect the public's health, safety and welfare and to enhance the environment for the people of the State shall be in accordance with the regulations established by the North Dakota Century Code and administered by the North Dakota Department of Health.

ARTICLE 21 - Building Permits: Certificate of Compliance: Use Permits

6.2101 Building Permits, Compliance, Use Permits

1. Building Permits: No building or structure shall hereafter be erected or structurally altered until a building permit shall be issued by the city auditor stating that the building or structure, and the use of the land complies with the provisions of this ordinance, and all building and health laws and ordinances. The building permit shall be valid for one (1) year from the date of issuance. If the structure is not completed within that time, a request for extension may be made to the City Council in case of extenuating circumstances. All applicants for building permits covering construction costing twenty-five hundred (2500) dollars or more, shall be accompanied by a complete set of plans, including a plan to duplicate, drawn to scale, showing the actual dimensions of the lot, or lots, to be built upon, the exact sizes and locations on the lot of buildings already existing, the size of the building or structure to be erected or structurally altered, its location on the lot, or lots, the location of the water shutoff, existing or proposed parking, the number of families, housekeeping units or rental units the building is designed to accommodate, and such other information as may be necessary to provide enforcement of this regulation. A careful record of such applications and plans shall be kept at the office of the city auditor. All new construction shall require a building permit and a plot plan. The builder and / or owner is responsible for securing all licenses, permits and fees required by the City of Harvey.
2. No building shall be constructed, and no permit shall be issued for any building, on any premise not served by a sewer line unless the area of the lot on which such building is to be erected complies with the state laws and city ordinances relative to septic tanks, as to size and condition of soil. All new water and sewer installations must be approved by the City Council before a building permit is issued.
3. No charge shall be made in the use of a building or part thereof now or hereafter erected or structurally altered, or in the use of land now hereafter occupied without a use permit having first been issued by the City Auditor. No such use permit shall be issued to

make such change unless it is in conformity with this ordinance or amendments thereto hereafter duly enacted.

4. Continuance of existing uses: Nothing in this ordinance shall prevent the continuance of the present occupancy nor lawful use of any building except as may be necessary for the safety of life and property, and except as provided in Section.

ARTICLE 22 - Community Unit Plans

6.2201 Community Unit Plans

The City Council may, by ordinance, and after a public hearing and a recommendation by the Planning and Zoning Commission, held and made in the manner provided by law for amendments to this ordinance, authorize, in any multiple family dwellings, or both, on not less than five (5) acres of land, and provided:

1. The plan is consistent with the intent and purpose of this ordinance to promote health, safety and general welfare.
2. The building shall be used for single family dwelling, two family dwellings or multiple family dwellings, and the usual accessory uses such as garages, storage space or project activities.
3. Adequate open spaces are provided between buildings to create an appearance and character of development suitable for the district in which the improvement is located.
4. Off-street parking facilities to be provided to meet all requirements of Section.
5. The specified requirements of this ordinance for yards, height of buildings and intensity of use of land may, but need not, be required in part or in whole of any planned residential development authorized by this Section.

ARTICLE 23 - Enforcement Officer

6.2301 Enforcement Officer

The City Auditor, or other official as designated by the governing body shall be the Zoning Administrator; and shall be charged with the responsibility of administering the ordinance. The Zoning Administrator shall insure that all provisions of this ordinance are properly and fairly enforced. In addition, the Zoning Administrator shall receive and review applications for and issue building permits; make inspections to discover violations and check for compliance; order termination of violations; provide zoning information upon request; advise official on zoning administration matter; act as coordinator for application for zoning charges; and maintain accurate maps and records. The Zoning Administrator shall have the power and exercise the functions prescribed by the State Statutes, the provisions of this ordinance and of all ordinance now in force or hereafter passed.

ARTICLE 24 - Board of Adjustments

6.2401 Establishment of Board of Adjustment

Establishment: A board of Adjustments is hereby established, which shall consist of five members to be appointed by the mayor, and approved by the City Council, each for a term of three years. Upon request of the Board, the governing body shall have the right to appoint an alternate member of the said Board of Adjustments, who shall sit as an active member when and if a member of said Board is unable to serve at any hearing.

6.2402 Proceedings of the Board of Adjustments

Proceedings of the Board of Adjustments: The Board of Adjustments shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustments shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official action all of which shall be a public record and be immediately filed in the office. The City Auditor shall act as secretary to the Board of Adjustment and shall keep a record of all proceedings, but shall take no other part in the Board's deliberations.

6.2403 Appeals, Notices, Hearings

Appeals, Notices, Hearings: Appeals to the Board of Adjustments concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by any decision of the administrative official. Such appeals shall be taken within a reasonable time, not to exceed 60 days or such lesser period as may be provided by the rules of the Board, by filing with the administrative official and with the Board all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustments shall fix a reasonable time for the hearing of appeal give due notice to the parties in interest, and decide the same within a reasonable time. At hearing, any party may appear in person or by agent or attorney.

6.2404 Stay of Proceedings

Stay of Proceedings: An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril of Life and Property. In such case proceeding shall not be stayed other than by a restraining order in which may be granted by the Board of Adjustments or by court of record on application, on notice to the

administrative official from whom the appeal is taken and on due cause shown.

6.2405 Power and Duties of Board of Adjustments

Powers and Duties: The Board of Adjustments shall have the following powers and duties:

1. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, interpretation, or determination made by the administrative official in the enforcement of the Ordinance.
2. To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

6.2406 Variance Criteria

Criteria Used for Granting Variances by Board of Adjustments:

1. Conditions causing such hardship are unique and not shared by neighboring property in the same zone.
2. Granting the variance will not essentially alter the character of the neighborhood.
3. The property will not yield a reasonable return if used in compliance with the existing ordinance.
4. Granting the variance will not conflict with the comprehensive plan.
5. The Board of Adjustments may prescribe appropriate conditions and safe guards in conformity with this ordinance. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this ordinance.
6. Under no circumstances shall the Board of Adjustments grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or may use expressly or by implication prohibited by the terms of this ordinance in said district.
7. Variance requests for the same property shall not be heard within six (6) months of a previous request unless it can be demonstrated to the administrative official that the conditions for the variance has changed.

6.2407 Cancellation of Variances

Cancellation of Variances: Unless otherwise specified by the Board of Adjustments at the time it is authorized, a variance shall expire if the applicant fails to utilize such variance within one (1) year from the

date of its authorization. All variances which have been heretofore authorized and have not been utilized shall expire one (1) year from the effective date of Ordinance unless utilized prior to such time.

6.2408 Appeals from Board of Adjustments

Appeals from the Board of Adjustments: Any person or persons, or any board, taxpayer, department, board or bureau of the city aggrieved by any decision of the Board of Adjustment may seek review by the governing body of the City of Harvey or by certiorari by district court of wells county. The application for a writ of certiorari shall be made to the court within fifteen days after notice of the decision of the board, and such writ shall be returnable within twenty days after the rendition of such decision. The court may take such evidence as may be required to determine the questions presented. The supreme court, upon application filed within fifteen days after the determination of the district court, shall review the action of the district court by certiorari.

ARTICLE 25 - Violations, Remedies, Complaints and Penalties

6.2501 Public Nuisance Per Se

Public Nuisance Per Se: Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

6.2502 Remedies

Remedies: If the administrative official shall find that any of the provisions of this Ordinance are being violated, she/he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. She/he may order discontinuance of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or may take other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

6.2503 Complaints Regarding Violations

Complaints Regarding Violations: Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the cause the basis thereof shall be filed with the administrative official. She/he shall record properly such complaint, immediately investigate, and take action thereon as provided by this ordinance.

6.2504 Penalties for Violation

Penalties for Violation: Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional permits) shall constitute a misdemeanor. Any

person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for no more than 30 days, or both, in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits participates in, assists in, or maintains such violation maybe found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 26 - Conditional Uses

6.2601 Statement of Intent

Statement of Intent: The provisions of the Section are intended to permit certain land uses which, under special conditions and review, can be compatible with the uses permitted by right in zoning district, and desirable to the development of the City as a whole. Only those uses identified in the zoning district regulations are eligible for a conditional use permit under the procedure described below. A conditional use permit under the procedure described below. A conditional use permit shall not be granted unless it meets the minimum standards and requirements of the applicable zoning district where permitted.

6.2602 Who May Apply

Who May Apply: Either the Planing Commission or City Council may initiate a conditional use permit. A property owner or representative of the property owner may request a conditional use permit if it applies to his / her property.

6.2603 Application Required

Application Required: To request a conditional use permit, a property owner or his/her representative shall fill out an application, copies of which are available in the City Auditor's Office. No application for a conditional use permit of a particular piece of property shall be accepted more than once in twelve (12) month period. The application shall be filed with the City Auditor who shall refer the application together with his / her comments thereon to the Planning Commission.

6.2604 Public Hearing and Notification

Public Hearing and Notification: No conditional use permit may be issued until after it is afforded a public hearing in accordance with the regulations set forth in this ordinance. In addition to this, the owners of all property situated wholly or partly within 350 ft. of the property lines in question shall be mailed or served notice and a list of the owners and addresses to which the notice was sent shall be attested and made part of the records of the proceedings. A failure of any property owner to receive notice or failure to give mailed notice to

individual property owners or defects in the notice shall not invalidate the proceedings provided a bona fide attempt has been made to comply with all notice requirements.

6.2605 Planning Commission Consideration

Planning Commission Consideration: Provided the applicant has furnished all information as requested, the Planning Commission shall consider the application at its next meeting provided the prescribed notification requirements can be met. The Planning Commission shall arrive at a recommendation within ninety (90) days of its meeting at which the application was first considered. Before making a recommendation, the Planning Commission shall review the application for a conditional use permit to ascertain compliance with the specific standards governing individual conditional uses, and the satisfactory provision and arrangement has been made concerning the following, there applicable.

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
2. Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district.
3. Refuse and service areas, with particular reference to the item in (1) and (2) above.
4. Utilities, with reference to locations, availability, and compatibility.
5. Screening and buffering with reference to type, dimensions, and character.
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.
7. Required yards and other open space.
8. Soil conditions, as they relate to on-site sewage disposal, water supply, basement excavating, road construction and related land use.
9. General compatibility with adjacent properties and other property in the district.

6.2606 Report to City Council

Report to City Council: The Planning Commission shall make its recommendations to the City Council. This recommendation shall be forwarded to the Council for consideration at the Council's next meeting.

6.2607 Commission Action

Commission Action: When it has been determined by the City Council that such conditional use will promote the public health, safety, and welfare, and that such proposal is in general compatibility with adjacent or nearby land uses, the zoning code, and the City's comprehensive plan, the City Council may authorize the Zoning Administrator to issue a conditional use permit. In authorizing this permit, the City Council may impose such conditions it deems necessary, i.e.; landscaping, architectural design, type of construction, construction age, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, to fulfill the purpose and intent of this ordinance. Any conditions imposed by the Council shall be attached to the conditional use permit shall be a violation of this ordinance.

6.2608 Amended Conditional Use Permit

Amended Conditional Use Permits: An amended conditional use permit may be applied for an administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include reapplications for permits that have expired or have been denied, requests for substantial changes in conditions or expansions of use, and as otherwise described in this ordinance.

6.2609 Criteria Conditional Use Permit

Criteria use for granting Conditional Uses by the Planning Commission and City Council:

1. Conditional uses must be specifically identified and conform to conditions listed in the zoning ordinance.
2. The proposed use should not be injurious to present use of the land nor prevent enjoyment of uses already permitted.
3. The change should not impede normal and orderly development of improvement of surrounding vacant property.
4. Adequate utilities, access roads, drainage, and other necessary facilities must exist or be available in the near future.
5. Sufficient off-street parking and loading space must be available.
6. Measures must be taken to prevent the conditional use from producing annoying nuisances (odors, fumes, dust, noise, etc.) in the area.
7. A conditional use permit must be issued for a particular use and not for an individual person or firm.
8. The permit is subject to periodic review. Any violation of the conditions should result in automatic termination. If used, conditional use permits are void after on year; to be enforceable, however, this must be stated in the ordinance.

6.2701 Purposes

Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the City Council may amend supplement, or change the regulations of the zoning ordinance, or the zoning boundaries or classification of property on the zoning map, as set forth herein.

6.2702 Initiation of Amendments

Amendments to the zoning ordinance shall be initiated only in the following manner:

1. Amendments to the text of the ordinance and/or changes in the zoning boundaries or classification of properties shown on the zoning map be initiated by the City Council or the Planning and Zoning Commission.
2. Amendments to the zoning boundaries or classification of property shown on the zoning map may be initiated by property owners of the land proposed to be re-zoned by the filing with the Planning and Zoning Commission's secretary of a zoning change application, which application shall be provided by the Planning and Zoning Commission's secretary, and accompanied by the required fee of fifty dollars (\$50.00) and all other materials and data required in said application.

6.2703 Preapplication Conference

Persons or parties interested in submitting an application for zoning change shall consult with the Planning and Zoning Commission's secretary, city engineer and the building inspector, at a joint meeting, concerning the proposed zoning change, its relationship to surrounding and adjacent properties, its relation to an effect upon the comprehensive plan, any applicable specific plans or any plans being prepared by the Planning and Zoning Commission and whether the proposed change is in conformance with public necessity, convenience, general welfare and good zoning practice.

6.2704 Application for Amendment

1. The Zoning change application shall be completed and filed by one or more of the owners of the property proposed to be changed, or his/her designated agent. The zoning change application shall contain the following information:
 - a. Name of applicant.
 - b. Mailing address.
 - c. Telephone number.
 - d. Accurate legal description of location.
 - e. Nature of zoning change requested.
 - f. Description of present land uses.
 - g. Description of adjacent land uses.
 - h. Statement of intended land use.
 - I. Statement concerning any expected effect upon the adjacent neighborhood.
 - j. Date of pre-application conference.
 - k. Names and addresses of adjacent property owners.

1. Signature of applicant.
2. The zoning change application shall be submitted at least 15 days prior to a Planning and Zoning Commission meeting and shall not be accepted by the Planning and Zoning Commission's secretary unless and until all of the application requirements of this section have been fulfilled

ARTICLE 28 - Fees

6.2801 Fees

Fees pertaining to building permits, use permits and certificates of compliance shall be set at a minimum of \$10.00 and/or \$1.00 for each \$1000.00 of construction or alteration costs.