

**CHAPTER SIX  
ZONING**

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# Rutland City Ordinances

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## ARTICLE 1 - INTRODUCTION

**6.0101. Title.** This Chapter shall be known as the Zoning Chapter of the City of Rutland, North Dakota.

**6.0102. Purpose and Intent.** This zoning chapter is adopted to promote and protect the health, safety, economic viability, morals and general welfare of the City of Rutland:

- To implement the plans and policies of the City.
- To promote orderly and beneficial development of the City to prevent conflict among land uses and structures.
- To regulate the use and division of land within the City and in the one-mile extraterritorial jurisdiction.
- To facilitate development of water, sewer, transportation and minimize the cost of public services.
- To protect and conserve the value of land and buildings against nuisances that interfere with the use and enjoyment of property, endanger personal health or safety or is offensive to the senses, as provided under the City of Rutland Ordinances.

**6.0103. Authority.** These regulations are adopted under the authority granted by The City of Rutland Home Rule Charter and Chapters 40-47, 40-48 and 40-50 of the North Dakota Century Code.

**6.0104. Severability.** If any part of this chapter is found invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected.

**6.0105. Repeal.** The existing City Zoning Ordinances together with any amendments is hereby repealed.

**6.0106. Effective Date.** This chapter shall become effective after adoption by the City Council of the City of Rutland, North Dakota, as provided by the North Dakota Century Code.

## ARTICLE TWO - DEFINITIONS

**6.0201. Word Use.** In the construction of this chapter, the following words, rules and definitions shall be observed and applied, except where the context clearly indicates otherwise:

- The present tense shall include the future.
- The singular number shall include the plural, and the plural the singular.
- “hall” is mandatory and not discretionary.
- “may” is a permissive word.
- The word "lot" shall also mean Parcel, piece and plat or premises.

### **6.0202. Definitions**

1. Accessory Building and Uses: A subordinate building or portion of the main building the use of which is clearly incidental to and serves exclusively the principal building or use of the property and is located on the same lot
2. Administrative Official: Appointed by the City Council, the Administrative Official accepts and issues building permits and serves as the initial contact about City zoning matters.
3. Agricultural operation or Agriculture: The science and art of producing plants and animals useful to people, by a corporation or limited liability company, a partnership, or proprietorship, and includes the preparation of these products for people’s use and the disposal of these products by marketing or other means. The term includes livestock auction markets and horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, and any and all forms of farm products and farm production.
4. Alley: A service roadway within a right-of-way providing a secondary means of motor vehicle access, not intended for general traffic circulation.
5. Alteration: As applied to a building or structure, is a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height or the moving from one location or position to another.
6. Basement: A story, partly underground with more than one-half of its height below grade.
7. Board of Adjustment: A five-member board appointed by the city council to five-year terms. Members include a broad representation of the community including two members of the Planning & Zoning Commission, one which will be the extra-territorial zoning representative. The Board of Adjustment hears

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appeals from actions of the administrative official and authorized variances and conditional use permits.

8. *Building*: Any structure used for shelter or enclosure of persons, animals or property.
9. *Building Area*: That portion of the parcel that can be occupied by the principal and accessory uses, excluding the front, rear and side yards.
10. *Building Height*: The vertical distance from the grade to the highest point of the roof.
11. *Building Line*: A line establishing the minimum distance that structures may be placed from the lot lines or street right-of-way. The building line is the same as setback line for purposes of this chapter.
12. *Building Permit*: Any person(s) intending to construct, reconstruct, or relocate a building or make alterations to property shall obtain a permit from the City Auditor/Zoning Administrator before commencing any excavation or proceeding with the work. Permits issued pursuant to these regulations shall expire one year from the date of issuance. (See p.17)
13. *City or City Council*: The governing body of the City of Rutland, North Dakota.
14. *Comprehensive Plan*: A guide for the management of the resources and development of the City of Rutland.
15. *Conditional Use*: A use not automatically permitted in a zoning district and which requires review and approval of the City Council after a public hearing. It is a use which would not be appropriate in a particular zoning district, but which if controlled according to number, location, and relationship to the surrounding uses, may be consistent with the purpose and intent of this chapter. A conditional use is permitted in a district specifically allowing it, subject to the approval of the City Council and only when the Council finds that such use meets all applicable requirements as specified in the City Ordinances and code including this Zoning Chapter.

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16. Conforming Building or Structure: A building or structure that complies with all requirements of this chapter and other regulations adopted by the City.
17. Developer: The owner or agent of land to be subdivided for a specific use.
18. Development: Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings, structures or accessory structures, the construction of additions or alterations to buildings or structures, grading, paving or excavation operations.
19. District Zoning: A section or sections of Rutland for which regulations governing the use of building and premises, the building heights, size of yards, lot area, lot width and the use are uniform.
20. Dwelling: Any building or portion thereof, used exclusively for human habitation including single family and multiple family units for residential purposes but not including hotels or motels, or vehicles designed for camping and other temporary occupancy such as vacation vehicles
21. Dwelling, Multiple Family: A single building or portion thereof, containing two (2) or more dwelling units.
22. Dwelling, Single Family: A building containing one dwelling unit only.
23. Easement: A right to the use of land for a specific purpose, such right being held by someone other than the owner who holds the title to the land.
24. Encroachment: Any fill, building, structure or use including accessory uses projecting into the required yard area or public and private property.
25. Establishment: A place of business for processing, production, assembly, sales, or service of goods and materials.
26. Extra Territorial Area: The area surrounding the city within one mile of the city corporate limits in all directions, where the city

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has zoning and platting control under the provisions of the North Dakota Century Code.

27. Family: One or more individuals living together as members of a single housekeeping unit doing their cooking in a single kitchen on the premises.
28. Feedlot: The use of land or buildings for the exclusive purpose of concentrated feeding or fattening of livestock for marketing.
29. Fence: Any structure at least four (4) feet high consisting of rails, timber, boards, PVC materials, walls, shrub row, hedgerow or similar planting or any combination thereof. Such fence shall not exceed six (6) feet in height and no more than four feet on a corner lot.
30. Final Plat: The map, plan, or record of a subdivision and any accompanying material prepared in conformance with this chapter.
31. Frontage: The front part of a lot abutting a public right-of-way or road or highway.
32. Garage, Private: A building or part thereof accessory to a main building and providing for the storage or automobiles and in which no occupation or business for profit is carried on.
33. Garden Shed: A garden shed shall be no larger than fourteen (14) feet by fourteen (14) feet and no greater than fifteen (15) feet in height. Garden sheds shall be located no less than six (6) feet from the rear and side lot lines in rear corners of the property. There shall be no more than two (2) garden sheds on any zoning lot. Said structures shall have doors facing into the property.
34. Grade: The land elevation at the horizontal intersection of the ground and the building.
35. Home Occupation: Customary home occupation for gain carried on in the main building or a building accessory thereto requiring only home equipment and employing no non-resident help and no trading in merchandise is carried on which does not create excess noise, traffic or other disturbances.

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36. Hotel or Motel: A building in which lodging accommodations, with or without meals, is provided for compensation.
37. Improvements: Street grading, surfacing, installation of sidewalk, curb, gutter, water, sanitary and storm sewer systems, culverts, bridges, trees, and/or street lights as may be required by the City.
38. Junk or Salvage Yard: An open area where waste or scrap material, including parts of used motor vehicles or inoperative vehicles, appliances and other machinery are collected, stored, salvaged or sold.
39. Kennel or Animal Kennel: Any premise where dogs, cats, and other pets are boarded, bred and maintained for compensation.
40. Lot: A parcel of land sufficient to meet the yard requirements of the regulations.
41. Lot Corner: A lot abutting two (2) public streets at their intersection.
42. Lot Coverage: The total surface area of a lot, which is covered by any type of structure.
43. Lot Depth: The average horizontal distance between the front and rear lot lines.
44. Lot Lines: The property lines bounding the lot.
45. Lot of Record: A lot, which is part of a subdivision or parcel of land, which has been recorded in the Office of the Sargent County Register of Deeds.
46. Lot Width: The horizontal distance between the side lot lines of a lot measured at the front building setback line.
47. Manufactured and Modular Homes: Factory built dwelling units, with at least 900 square feet of living space, to be placed on a permanent foundation or basement and is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to be placed on a permanent site and bears a label certifying that it was built in compliance with the latest standards adopted by the U.S. Dept. of Housing and Urban



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Development for a manufactured home and the Uniform Build chapter for a modular home.

48. Mobile Home: Manufactured unit, transportable in one or more sections, has at least 900 square feet of living space and is designed as a year-round dwelling unit to be placed on a permanent foundation or a basement. The mobile home must comply with the latest Manufactured Home Safety Construction and Safety Standards adopted by the U.S. Dept. of Housing and Urban Development. A recreational travel trailer is not to be considered a mobile home.
49. Mobile/Manufactured Home Park: A parcel of land for which a detailed plan indicating the location of lots, blocks, streets, facilities and utilities subject to the requirements of this chapter is approved by the City of Rutland.
50. Nonconforming Building or Use: Any structure, building, or tract of land existing at the time of the adoption or amendment of this ordinance, which does not conform to the ordinance.
51. Non-residential Plat: A plat that is intended for use other than residential such as commercial or industrial use.
52. Parking Space: A separately accessible space, nine (9) feet by twenty (20) feet for parking a vehicle. All references to vehicle parking in this ordinance shall mean off-street parking.
53. Permanent Foundation: An extension of the outer walls of a building or structure made of solid materials such as brick, concrete or treated wood and extended below the ground surface through the frost zone, or other depths as required by the city.
54. Permitted Uses: Those uses, buildings or structures which comply with the provisions of specific zoning districts because of the similarities in nature and relationship to each other. Permitted uses are distinct from conditional uses that are authorized only if certain requirements of this chapter are met.
55. Person: Any individual, firm, corporation, partnership or legal entity.

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56. Planning Commission: A citizen group appointed by the City Council under the authority of North Dakota Laws, as an advisory group.
57. Plat: A map of a subdivision of land prepared according to the provisions of this chapter.
58. Preliminary Plat: The preliminary plan of a subdivision and any accompanying material prepared in accordance with the requirements of this chapter.
59. Public Way: Any dedicated and recorded right-of-way including alleys, sidewalks, streets, roads or highways.
60. Right-of-Way: A strip of land designated or dedicated for streets, sidewalks, railroads, electric transmission line, telephone and telegraph lines, oil or gas pipelines, sanitary, storm, or water systems.
61. Setback: The required minimum horizontal distance between the building line and the related front, side, or rear property line.
62. Sign: Any emblem, name, identification, description or illustration which is used for outdoor advertising having permanent location on the ground or attached to or painted on a building including bulletin boards, billboards and poster boards, but excluding real estate for sale signs, political campaign signs, public information and traffic signs.
63. Site Plan: A detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in this chapter.
64. Street: A dedicated public way, which affords traffic circulation and a principal means of access to abutting properties.
65. Structural Alteration: Any change in the supporting elements of a building or other structure, such as bearing walls, columns, beams or girders or any substantial change in the roof or exterior walls of a building.
66. Structure: Anything built, constructed, or erected which requires permanent location on the ground.

67. Variance: A relief, which may be granted to allow the applicant to vary from terms of the zoning chapter because unique conditions of a particular piece of property would make compliance an undue hardship.
68. Yard, Front A yard that extends across the full width of the lot as the least distance between the front lot line and the front building line.
69. Yard, Rear: A yard that extends across the full width of the lot, as the least distance between the rear lot line and the rear building line.
70. Yard, Side: A yard between the front and rear yards, as the least distance between the side of the principal building and the side lot line.

### ARTICLE 3 – GENERAL PROVISIONS

**6.0301. Jurisdiction.** This chapter shall apply to all land within the corporate limits of the City of Rutland, North Dakota, and one mile outside its corporate limits, known as the extra-territorial planning area authorized by the Laws of North Dakota.

**6.0302. Interpretation.** This chapter shall dictate the minimum requirements. Whenever these requirements are in conflict with other requirements, rules, regulations, deed restrictions or covenants, the most restrictive shall govern, unless otherwise specifically stated. The City Council may, from time to time, amend, supplement or repeal any part of this chapter after a public hearing.

**6.0303. Comprehensive Plan.** This chapter is administered and enforced to implement the City Comprehensive Plan, adopted by the City Council as a policy guide to protect the city's resources and to accommodate the type of development deemed appropriate including but not limited to the following:

- To encourage the most appropriate use of land in the city.
- To regulate and restrict the location and intensity of use of buildings and land.
- To conserve and enhance the taxable value of land and buildings and to avoid one land use placing a negative impact on another.
- To promote development of compatible uses.

**6.0304. Compliance.** No structure, land and/or building shall be hereafter used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a building permit and shall be in compliance with these regulations.

**6.0305. Non-conforming Use.** The lawful use of any building, structure or land existing at the time of the enactment of this chapter may be continued, although such use does not conform with the provisions of this chapter, provided the following conditions are met.

1. **Alterations:** A non-conforming building or structure may be altered, improved or reconstructed provided such work is not to an extent exceeding in aggregate cost twenty-five percent (25%) of the assessed value of the building or structure, unless the building or structure is changed to a conforming use.
2. **Extension:** A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building or structure which existed prior to the enactment of this ordinance shall not be deemed the extension of such non-conforming use.
3. **Changes.** No non-conforming building, structure or use shall be changed to another non-conforming use.
4. **Abandonment.** A non-conforming use of a building or premises which has been abandoned shall not thereafter be returned to such non-conforming use.
5. **Unlawful Use Not Authorized.** Nothing in this chapter shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this chapter.
6. **Certificate of Non-Conforming Use.** Upon the effective date of this chapter, the zoning administrator shall issue a "Certificate of Non-Conforming Use" to all owners of property, the use of which does not conform to the provisions of the use zone in which the property is located.
  - a. In accordance with the provisions of this section no use of land, buildings or structures shall be made other than that specified on the "Certificate of Non-Conforming Use," unless said use shall be in conformity with the provisions of the use zone in which the property is located.
  - b. A copy of each "Certificate of Non-Conforming Use" shall be filed with the office of the zoning administrator. No permit or license shall be issued to any property for which

a “Certificate of Non-Conforming Use” has been issued until said permit or license has been approved by the zoning commission.

7. **District Changes.** Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any non-conforming uses existing therein.

**6.0306. Public Sewer and Water System:** To protect the public health, control water pollution and reduce nuisance and odor, all new developments within the City of Rutland shall be connected to the city sewer and water system. Construction and use of septic tanks, privies and cesspools shall be prohibited within the corporate limits of the City of Rutland.

#### ARTICLE 4 - DISTRICT BOUNDARIES AND MAP

**6.0401. Zoning Districts.** For the purpose of this chapter, the City of Rutland is hereby divided into the following districts:

- R -Residential District
- R - MHP - Residential - Mobile Home Park District
- A - Agricultural District
- C - Commercial
- I - Industrial

**6.0402. Zoning Map.** The location and boundaries of the zoning districts are established as shown on the “Official Zoning Map of Rutland.” on file in the Office of the Rutland City Auditor. The Official Zoning Map, together with the information shown thereon and all amendments thereto, shall be an integral part of this chapter.

**6.0403. Public Streets as Boundary.** Where zoning district boundary lines are indicated as following streets and public ways or extensions thereof, such boundary lines shall be construed to be the centerline of said streets or public ways or extension thereof unless clearly shown to the contrary.

**6.0404. Lot Line as Boundary.** Where a zoning district boundary line coincides approximately but not exactly with the lot line, the zoning boundary shall be construed to be the lot line at that location. All section lines, quarter section lines and quarter-quarter section lines may be construed as the property lines.

**6.0405. District Description for Un-subdivided Lands.** For un-subdivided property, zoning district boundaries may be determined by metes and bounds description or by a legal description.

**6.0406. Vacated Areas.** Where a street or public way is vacated by the official action of the City Council, the zoning district boundaries shall be extended to the center of the vacated street or public way.

**6.0407. R – Residential District.** The residential district is primarily established to promote a suitable residential environment to accommodate single and multi-family residential dwelling units.

**1. Permitted Uses.**

- a. Single-family and two-family detached residential uses
- b. Multi-family residences, boarding and rooming houses,
- c. Accessory buildings and structures
- d. Apartments, sleeping rooms, and owner-occupied residences situated above commercial service and trade establishments
- e. Churches, schools, and public facilities including parks and public libraries.
- f. Home occupation

**2. Conditional Uses.**

- a. Day care facilities
- b. Municipal offices including city offices, fire houses, county and state offices
- c. Mobile homes provided:
  - i. they are no more than ten years old, at least 14' wide and at least 60' in length;
  - ii. all wiring and plumbing parts are inspected by a licensed electrician and plumber and all updates and repairs are completed prior to moving on the lot.
  - iii. are placed on a permanent foundation or basement by a registered installer;
  - iv. have a main entrance facing the public street;
  - v. have siding similar to surrounding dwelling units;
  - vi. have permanent skirting prior to occupancy.
- d. Tiny Homes provided:
  - i. They are placed on a permanent foundation
  - ii. They face a public street
  - iii. They are at least 8' wide and 10' in length

**3. Yard Requirements.**

- a. Minimum Lot Area: For single-family units shall be seventy-five hundred (7,500) square feet; 10,000 square feet for two-family; 7,500 square feet for each additional multi-family unit provided that public water and sewer is available. Coverage – 50% percent, maximum
- b. Front Yard: The minimum front yard, measured from the front lot line, shall be no less than twenty-five (25) feet. A corner lot has two fronts.
- c. Rear Yard: The minimum rear yard, measured from the rear lot line, shall not be less than twenty-five (25) feet.
- d. Side Yard: The minimum side yard, measured from the side lot line, shall not be less than ten (10) feet on each side of a lot.

**4. Building Height.** No building shall be more than two and one half (2½) stories or thirty-five (35) feet high, except church steeples.

**5. Parking Requirements.** There shall be a minimum of two (2) off-street parking spaces for each residential dwelling unit and one and one-half spaces for each unit in two-family and multi-family dwellings.

**6.0408. Fences and Walls.** No fence, wall, shrub row, hedgerow or similar planting shall be erected, maintained or planted, nor shall any addition or change thereto be made until plans and specifications, and any other information reasonably related to the proposed fence have been submitted and approved in writing by the City.

Mutual consent of adjoining landowners is required before a fence shall be erected or altered.

No fencing shall be permitted to extend beyond the front of the primary structure facing the front of the lot except through a Conditional Use process. Setback must be at least five-feet (5') from the property line unless the adjacent property owner(s) have a formal, signed agreement with a specific setback.

No fence shall exceed six (6) feet in height and no fence on a corner lot shall exceed four (four) feet in height to minimize obscuring visibility at intersections.

All fences shall be maintained by the property owner and shall be stained or otherwise finished to be consistent with the neighborhood.

**6.0409. R-MH – Residential-Mobile Home Park District.** To establish and preserve individual areas within the city for mobile home parks, which will have minimal impact on the community, but which will provide ample room and necessary utilities for such development.

**1. Permitted Uses.**

- a. Mobile home parks
- b. Parks and outdoor recreation facilities
- c. Compatible accessory uses

**2. Regulations.** All mobile home parks shall be licensed by the city and shall comply with its regulations and the regulations of the North Dakota State Health Department and all other state regulatory agencies.

**3. Mobile Home – Requirements.**

- A. **Anchoring.** If a mobile home has wind specification anchoring, the anchoring system used must be within these standards. If a mobile home does not have specific anchoring requirements, the mobile home shall be anchored by a system of over-the-top straps and straps connected to the I-beam substructure of the home. These straps shall be connected to screw-type anchors or other anchoring devices in the ground.
- B. **Building Height.** No building shall be more than two and one half (2½) stories or thirty-five (35) feet high, except church steeples.
- C. **Site Area.** A mobile home park must have a minimum site area of 1 acre.
- D. **Number of Spaces.** A mobile home park must have at least six (6) mobile home spaces, with two (2) spaces ready for occupancy before the first space may be occupied.
- E. **Streets.** Each mobile home space must abut and have access to a paved street or other access way, with a minimum width of 26 feet. Streets must be constructed in accordance with the specifications of the City.



- F. **Drainage.** All drainage structures must be designed and installed in accordance with the applicable drainage standards of the City.
- G. **Electrical Service.** All mobile home parks must be provided with underground electrical service facilities. No overhead facilities are allowed.
- H. **Telephone Service.** All mobile home parks must be provided with underground telephone service facilities. No overhead distribution systems are allowed.
- I. **Fences and Walls.** Regulations regarding fences and walls are set forth on page 12 and 13 of this chapter.
- J. **Parking.** One off-street parking space for each unit shall be provided.
- K. **Lot Area, Width and Coverage.** The minimum lot width shall be no less than seventy-five (75) feet. Maximum lot coverage shall be fifty percent (50%).
- L. **Yard Requirements.** The minimum front yard, measured from the front lot line, shall be no less than twenty-five (25) feet.

The minimum rear yard, measured from the rear lot line, shall be no less than twenty-five (25) feet.

The minimum side yard, measured from the side lot line, shall be no less than five (5) feet on each side of a lot.

**6.0410. A - Agricultural District.** The purpose of this district is to protect and preserve areas of agriculture and low intensity development which do not significantly change the existing character of the area.

1. **Permitted Uses.** Agriculture and agricultural-related buildings, including farm dwellings, public buildings and facilities, general utility lines and pipelines, including substations for transformers, pumping and lift stations excluding feedlots, poultry, fish and fur farming.
2. **Conditional Use.** Storage of farm-related chemicals for re-use.

3. **Yard Requirements.** 150 feet measured from the centerline of any public road. (Applicable to all structures and plantings.) and not less than fifty (50) feet.

**6.0411. C – Commercial District.** The commercial district is primarily established for the concentration of commercial activities serving the needs of the city and surrounding trade area.

**1. Permitted Uses.**

- a. Advertising signs and billboards
- b. Amusements and recreation
- c. Automobile accessory stores and automobile dealerships
- d. Banks and financial institutions
- e. Boarding and room houses
- f. Fraternal and philanthropic organizations
- g. Hotels and motels
- h. Multiple family dwelling units
- i. Professional offices for businesses and services without limitation
- j. Public buildings and facilities
- k. Restaurants, including all types of eating and drinking establishments
- l. Retail stores and shops
- m. Shipping Containers provided they are painted a solid color without signage or lettering, are not permanently installed and are being used as a shipping container and that all applicable Department of Transportation licenses for the containers are active and valid, if any are required for the intended use;

**2. Conditional Uses.**

- a. Contractor's yards and operations
- b. Storage of farm-related chemicals for resale

**3. Yard Requirements**

- a. Rear Yard - 10 feet except where a commercial use adjoins a residential use or bounds a Residential or Residential-Mobile Home District, then the requirements specified for the R-District and the R-MH District shall apply.
- b. Side Yard - none except where a commercial use adjoins a residential use or where it bounds an R-District or an R-MH District, then R and R-MH District regulations shall apply.

4. **Commercial Parking Requirements.** Off-street parking for all employees and all rolling equipment shall be provided at a ratio of one-to-one; one space for each four customers or visitors.

5. **Multi-family Residential:** All multi-family residential uses shall conform to the yard, lot and parking requirements of the R-District.

**6.0412. I – Industrial District.** The industrial district is primarily established to accommodate industrial uses and facilities appropriate for the City of Rutland. It is planned to encourage grouping of related industrial uses for preventing intrusion on other uses specifically resident areas and to maintain an orderly, functional and efficient industrial land use system.

All industrial uses shall be situated at a minimum of 75 feet from any residential property line.

### **1. Permitted Uses.**

- a. Farm equipment sales;
- b. Feed mills;
- c. Grain elevators;
- d. Heavy equipment sales;
- e. Lumber yards;
- f. Shipping Containers provided they are painted a solid color without signage or lettering, are not permanently installed and are being used as a shipping container and that all applicable Department of Transportation licenses for the containers are active and valid, if any are required for the intended use;
- g. Truck terminals;
- h. Warehouses;
- i. Storage facilities for building materials such as lumber, steel, concrete blocks or pipe, provided said materials shall be either enclosed by a wall or fence equal in height to the highest pile of materials, but not less than 5 feet high, or stored in an enclosed structure;
- j. Other industrial uses provided that they do not cause excessive, obnoxious, or injurious noise, vibration, smoke, gas, fumes, odor, dust, fire hazards, or other objectionable conditions to all neighboring uses.

### **2. Conditional Use**

- a. **Junk Yards** – All sites for salvage and junk yards require City Council approval. All salvage yards and operations shall be screened from the public view unless the salvage material is placed five hundred (500) feet away from any highway or street right-of-way and screened by natural vegetation, building and/or landform.

**ARTICLE 5  
ADMINISTRATION AND ENFORCEMENT**

**6.0501. Organization.** To administer this chapter the following bodies are hereby vested with authority to act in behalf of the City of Rutland:

- The Zoning Administrator/City Auditor
- The Planning Commission
- The Zoning Board of Adjustment
- The City Council

**6.0502. Zoning Administrator/City Auditor.** The Zoning Administrator is duly appointed and authorized by the City Council and is responsible to administer this ordinance, to assist the Planning Commission, and the City Council on any matter related to planning for and development of the City of Rutland. The duties of the Zoning Administrator include the following:

- Issue all zoning certificates, permits and maintain records thereof.
- Issue all building and repair permits.
- Maintain zoning related records and zoning district map including records of all amendments, conditional uses and variances.
- Receive, file and forward to the Planning Commission all applications for zoning amendments, site approvals and conditional uses.
- Prepare and publish notices and notify adjoining property owners.
- Notify, in writing, the property owner or user upon finding violation of this ordinance and cite the nature of violation clearly, require compliance and a report of the findings to the Planning Commission.

- Receive, file and forward to the Planning Commission all applications for preliminary and final plats and the supporting documents.
- Receive, file and forward all requests for variances to the City Council, which may act as a Board of Adjustment.
- Report all zoning and land subdivision violations to the Planning Commission.

**6.0503. Interpretation of Regulations.** All questions of interpretation of this ordinance shall be presented to the City Council which may act as the Board of Adjustment.

**6.0504. Building Permit applications.** Any person or persons desiring to construct, alter or move a building in the City of Rutland must first make application in writing for a permit. Storm-related replacement repairs do not require a building permit. The permit application shall state:

1. Dimensions of building or extent of alteration or repairs.
2. Kind of material to be used in construction, alteration or repairs.
3. The estimated costs of construction, alteration or repair.
4. Description of land upon which building is to be constructed, altered or repaired.
5. A plot plan, drawn to scale, with all dimensions figured, showing accurately the size and exact location of all proposed new construction and the relation to other existing or proposed buildings or structures on the same lot and other buildings or structures on adjoining property within fifteen (15) feet of the property lines.

If the application is for a permit to move a building, it shall state:

1. Land on which building is located.
2. Land to which it is desired to move same.
3. The estimated value of building.
4. Material of which building is constructed.
5. The proposed route along which building is to be moved in the City.

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Full specifications and plans of the proposed building or alterations must be included with the application.

Said application shall be filed with the Zoning Administrator (City Auditor), together with a fee as set forth and stated on the Building Permit Application Form. In the event the permit is denied, the fee shall be returned to the applicant.

Failure to obtain an approved building permit prior to beginning any work will result in a \$100.00 fine, with late fee(s) to accrue until paid. If the building fees are not paid, they will be applied as a special assessment on the property.

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

**6.0505. Fees.** The Zoning Administrator shall charge and collect a fee as set by the City Council.

**6.0506. Inspection of Premises.** The Zoning Administrator, or Fire Chief, or other designated official, shall, as often as practical, inspect all buildings for which a permit has been issued including placement of mobile homes and manufactured homes, to ensure that all provisions and conditions set forth under this ordinance are met. Whenever, in his/her opinion, by reason of defective or illegal work in violation of a provision of this article the continuance of a building operation is contrary to public welfare, she/he may order all further work to be stopped and may require suspension of work until the condition in violation has been remedied.

**6.0507. State Building Code.** The City Council hereby adopts the State Building Code as provided in Chapter 54-21.3 of the North Dakota Century Code as is currently adopted and which may be heretofore amended from time to time as is provided by the laws of the State of North Dakota.

**6.0508. State Plumbing Code.** The installation or repair of, and extension to, all plumbing within the City of Rutland shall be regulated in accordance with the minimum standards as set forth in the State Plumbing Code of the State Plumbing Board of the State of North Dakota.

No person, firm or corporation shall be permitted to engage in the work or business of a master plumber or journeyman plumber unless registered and licensed to do so by the State Board of Plumbers.

**6.0509. Conditional Use and Site Approval Permits.** The Zoning Administrator shall issue a conditional use of site permit upon approval of the application by the Board of Adjustment.

**6.0510. Variances.** The Zoning Administrator shall issue a permit if the Board of Adjustment approves the variance. The terms of the variance or special use shall be stipulated in the permit.

**6.0511. The Final Plat.** In the event of a land development of unplatted lands, a preliminary plat shall be prepared by a registered land surveyor and shall be presented to the Planning Commission for review and recommendation to the City Council. The preliminary plat shall cover the entire contiguous area owned or controlled by the subdivider if it is less than twenty (20) acres even though only a small portion of it is proposed for the development at the time. The subdivider may be required to submit a development plan if the owner/agent controls more than twenty (20) contiguous acres of land.

Preliminary Plat Content and Submission Requirements are available from the Zoning Administrator/City Auditor.

The City Auditor shall sign the final plat when the City Council has approved the final plat.

**6.0512. Zoning & Planning Commission.** There is hereby created a zoning and planning commission consisting of five members to be appointed by the governing body of the City which shall recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. If the City exercises extraterritorial zoning authority pursuant to North Dakota Century Code Section 40-47-01.1, the zoning commission must include one member residing outside the corporate limits of the city. Such commission shall make a preliminary report and hold public hearings before making its final report. Such commission shall also hold hearings and make reports and recommendations as to the supplements and changes in boundaries and regulations. (NDCC Section 40-47-06).

The action of the Zoning & Planning Commission is advisory to the City Council and all final decisions rest with the City Council.

Duties of the Zoning & Planning Commission are:

1. To hear and act on all applications for amendments to zoning districts and take action for approval, denial or approval with modification.
2. To hear and act on all applications for conditional uses and site approvals in the manner prescribed in this ordinance and make recommendations to the City Council.

The Zoning & Planning Commission may serve as the building official and serve at the discretion of the City Council.

**6.0513. Notice of Hearings.** The Zoning & Planning Commission shall fix a reasonable date or hearing of applications for zoning district amendments, conditional use permits, site approval and plat applications and other matters before it, give public notice thereof in the official newspaper of the city and the nearest regularly published newspaper at least once a week for two consecutive weeks prior to the hearing. The notices shall give time and place of hearing and shall state the purpose of the hearing and that the applications and supporting documents for zoning district amendments and conditional use permits shall be available for public inspection by the City Auditor.

**6.0514. Meetings.** Meetings of the Zoning & Planning Commission shall be held at the call of the Chairperson and at such other times as the Planning Commission may determine. All meetings shall be open to the public and any person may testify for or against a petition.

**6.0515. Board of Adjustment.** The Board of Adjustment shall consist of five members appointed by the City Council for five-year terms and consist of two private citizens and three members of the Planning/Zoning Commission, including the extra territorial zoning representative. The Board of Adjustment shall Hear all appeals from actions taken by the administrative official and shall authorize variances.

**6.0516. Notice of Hearing.** The Board of Adjustment shall fix a reasonable date for hearing the application for variance(s) and give public notice in the official newspaper of the city at least once a week for two consecutive weeks prior to the hearing. The notices shall give time and place of hearing and shall state the purpose of hearing and that the application and supporting documents for variance shall be available for public inspection by the City Auditor.



**6.0517. City Council.** The City Council maintains the authority for review, approval, modification and denial of recommendations of the Planning Commission.

The City Council shall:

1. Appoint the Zoning & Planning Commission, the Board of Adjustment and the Administrative Official.
2. Adopt the original zoning ordinance which sets district boundaries and zoning regulations.
3. Set fees and fines associated with administering and enforcing the zoning ordinance.
4. Act upon any amendments to the zoning ordinance.
5. Act as final arbiter on an appeal to a decision by the administrative official or board of adjustment before it can proceed to district court.

**6.0518. Notice of Hearing.** The City Council may hold hearing(s) as required by the City of Rutland general ordinances, this ordinance and the laws of the State of North Dakota.

**6.0519. Penalty for Violation of Chapter.** Any person, firm, or corporation violating any of the terms or provisions of this chapter for which no specific penalty is provided, shall upon conviction be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) or imprisonment not to exceed Thirty (30) days, or both, such fine and imprisonment in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof or make its order that the person shall correct the violation or permit said violation to continue. The application of this penalty shall not be held to prevent enforced removal or correction of prohibited conditions.

Second Reading and Adoption: October 1, 2018