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**CHAPTER SIX  
ZONING - LAND USE PLANNING**

**ARTICLE 1 – Introduction**

6.0101 Authority

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

6.0102 Jurisdiction

The territorial jurisdiction of the Planning and Zoning Commission is declared to include all land within the city limits and all territory located within ½ mile in every direction of the city limits. (North Dakota Century Code 40-47-01.1)

6.0103 Purpose

It is the purpose of this chapter to promote the health, safety, and general welfare of the citizens of Cando.

It is the specific intent to:

1. Regulate the use of all structures and land in the jurisdiction.
2. Regulate lot coverage, population density and distribution, and location and size of structures.
3. Provide regulations for the subdivision of land.
4. Secure safety from fire, flooding, and other dangers.
5. Provide adequate light, air, sanitation, and drainage.
6. Further the appropriate use of land and conservation of natural resources.
7. Stabilize and protect the natural beauty and property values within the Cando jurisdiction.
8. Lessen congestion in and promote the safety and efficiency of streets and highways.
9. Facilitate the adequate provision of public facilities and utilities.
10. Secure the orderly development of Cando.
11. Provide for the administration and enforcement of this chapter and penalties for violation.

6.0104 Abrogation and Greater Restrictions

It is not the intent to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted. Whenever this chapter imposes greater restrictions, this chapter shall govern.

In interpretation and application, this chapter shall be construed in favor of the City of Cando, and shall not be construed to be a limitation or repeal of any other power granted by the North Dakota Century Code.

#### 6.0105 Severability

If any part or provision of this chapter or the application thereof to any person, property, or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its effect to the part, provision, section, or application expressly involved in the controversy and shall not affect or impair the integrity of validity of the remainder of the chapter or its application to other persons, property, or circumstances.

If any application of this chapter to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment.

#### 6.0106 Repeal

This chapter supersedes all of the following which shall hereby be repealed: The previous zoning ordinances, including the zoning ordinances chapter XVIII, of the City of Cando and ordinance 267 and all regulations, parts of city regulations, existing ordinances or resolutions in conflict with this chapter or its provisions.

### **ARTICLE 2 - Planning and Zoning Commission**

#### 6.0201 Planning and Zoning Commission Members

There is hereby created a Planning and Zoning Commission consisting of six members, five members to be appointed by the Mayor, with the approval of the City Council, for a term of 3 years, and one appointed by the Towner County Commissioners for a term of 5 years.

The Mayor, the Engineer and City Attorney shall be ex-officio members. (Source: North Dakota Century Code Section 40-48-03)

#### 6.0202 Terms, Compensation, Meetings

The terms of the members, their compensation, and meetings shall be as provided by Chapter 40-48 of the North Dakota Century Code.

#### 6.0203 Powers and Duties

The Planning and Zoning Commission shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows:

1. To decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
2. To vary or adapt the strict application of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, where the strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of use of the land or building, but in no other case. The Planning and Zoning Commission shall prescribe any conditions that it deems necessary or desirable. However, no variance shall be recommended unless it finds:
  - A. There are special circumstances or conditions, fully described in the findings, which circumstances or conditions are peculiar and do not apply to land or buildings in the neighborhood, and said circumstances or conditions are such the strict application of this chapter would deprive the applicant of the reasonable use of such land or building.

- B. The granting of the variance is necessary for reasonable use of the land or building and the variance as recommended is the minimum variance that will accomplish this purpose.
  - C. The recommendation will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of adjoining buildings and those in the vicinity, shall take into account the number of persons residing or working in the buildings or upon the land and traffic conditions.
- 3. The Planning and Zoning Commission shall act in strict accordance with the procedure specified by law and this chapter. All appeals and applications shall be in writing. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall exactly set forth the interpretation that is claimed, or the details that is applied for and the grounds on which it is claimed the variance should be granted. Every decision of the Planning and Zoning Commission shall be submitted to the City Council for final determination.
  - 4. No action of the Planning and Zoning Commission shall be taken on any case until after due notice of 15 days has been given to the parties and a public hearing has been held.

#### 6.0204 Amendments

The City Council may amend this chapter by supplementing, changing, modifying or repealing any of the regulations, restrictions or other provisions thereof or of the district map or the districts or of the boundaries. A proposed amendment may be initiated by the City Council, or upon a request from the Planning and Zoning Commission, or by petition from any interested person, or persons, or their agents.

The City Council shall require a report from the Planning and Zoning Commission on a proposed amendment before taking final action. The Planning and Zoning Commission shall make a tentative report and hold a public hearing with notice the same as required for a public hearing by the City Council, before submitting its final report. Such final report shall be submitted within 90 days after the time of referral of the proposed amendments to the Planning and Zoning Commission unless the City Council agrees to an extension.

After receipt of the final report from the Planning and Zoning Commission or in the event of failure to report within 90 days, the City Council shall hold a public hearing, after which the proposed amendment may be passed. Not less than fifteen (15) days notice of the time and place of holding such public hearing shall first be published in the official newspaper.

If a protest against a change, supplement, modification, amendment or repeal is filed and signed by owners of twenty percent (20%) or more:

- 1. Of the area of the lots included in such proposed change; or
- 2. Of those immediately adjacent in the rear thereof extending 150 feet therefrom; or
- 3. Of those directly opposite extending 150 feet from the street frontage of the opposite lots.

The amendment shall not become effective except by a favorable vote of three-fourths (3/4) of all the City Council members.

#### 6.0205 Enforcement

The erection, construction, reconstruction, alteration, repair, conversion or maintenance of any building or structure or the use of any building, structure or land in violation of this chapter or of any regulation, order, requirement, decision or determination made under authority conferred by this chapter, shall constitute the maintenance of a public nuisance and any appropriate action or proceeding may be instituted by the City, through any Building Inspector, or Fire Chief, or other designated official, or department:

1. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or
2. To restrain, correct or abate such violation, or
3. To present the occupancy of the building, structure or land, or
4. To prevent any illegal act, conduct, business or use in or about such premises.

### **ARTICLE 3 – Definitions**

#### **6.0301 Definitions**

For the purpose of this chapter the following words and phrases shall have the meanings herein given:

1. “Accessory Use or Building” is a subordinate use or building customarily incident to and located on the same lot with the main use or building.
2. “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.
3. “Building” is a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property, including tents, lunch wagons, dining cars, camp cars, trailers and other roofed structure on wheels or other supports used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes. For the purposes of this definition “roof” shall include an awning or other similar covering, whether or not permanent in nature.
4. “Building Line” is the line between which and the street line or lot line no building or other structure or portion thereof, except as provided in this Code, may be erected above the grade level. The building line is considered a vertical surface intersection the ground on such line.
5. “Clear Sight Triangle” is a right-angled triangle formed from points measured on the curb twenty (20) feet in each direction from the corner.
6. “Commercial Animal Feedlot” is any livestock feeding, handling, or holding operation or feed yard doing business as an enterprise where on hundred (100) head or more of livestock are kept for the purpose of feeding and where the livestock kept are for resale or slaughter.
7. “Dwelling” is a building designed or used as the living quarters for one or more families.
8. “Dwelling House” is a detached house designed for an occupied exclusively as the residence of not more than two families each living as an independent housekeeping unit.
9. “Dwelling Unit” is one or more rooms providing complete living facilities for one family, including equipment for cooking, or provisions for the same, and including room or rooms for living, sleeping and eating.
10. “Dwelling, Multi-Family” is a dwelling or group of dwellings on one plot containing separate living units for three or more families, but which have joint services or facilities for both.
11. “Family” is a single individual, doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage or other domestic bond as distinguished from a group occupying a board house, lodging house, club, fraternity or hotel.

12. "Garage, Private" is a building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.
13. "Lot" is a parcel of land occupied or capable of being occupied by one building, and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this chapter.
14. "Non-conforming Use" is a building, structure or use of land existing at the time of the enactment of this chapter and which does not conform to the regulations of the district in which it is located.
15. "Setback Building Line" is a building line back of the street line.
16. "Structure" is anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards, but not including fences or walls used as fences.
17. "Use" is the purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.
18. "Variance" is a relaxation of the 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 the 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 space.
19. "Yard" is an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.
20. "Yard, Front" is an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot.
21. "Yard, Rear" is an open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.
22. "Yard, Side" is an open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a lot line.

#### **ARTICLE 4 – Establishment of Districts**

##### **6.0401 Use and Area Districts Established**

For the purposes of this chapter, the City is divided into use districts and area districts.

##### **6.0402 Maps and Boundaries**

The boundaries of these districts are hereby established as shown on a map entitled "The Zoning Map of the City of Cando" which is on file in the office of the city auditor. This map, with all explanatory matter thereon, is hereby made a part of this chapter.

##### **6.0403 Annexed Property**

Property not included within a district and becomes a part of the City by annexation shall automatically be classified as lying and being in the R-1 residential district until such classification has been changed by an amendment to the zoning ordinances.



**ARTICLE 5 - Application of Regulations**

**6.0501 Application of Regulations**

Except as provided in this chapter:

1. Conformity of Buildings and Land. No building, structure or premises shall be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified for the district, as shown on the official map, in which it is located.
2. Conformity of Buildings. No building, structure or premises shall be erected, altered or used so as to produce smaller yards or less unoccupied area, and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.
3. Conformity of Open Spaces. No yard, court or open space, or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling under this chapter.

**ARTICLE 6 – General Provisions**

**6.0601 Introduction**

The proper regulation of certain lands and structures cannot be accomplished by district regulations alone, therefore these general provisions shall be applied in addition to any district regulations.

**6.0602 Compliance**

No structure, land, water, or air shall be used and no structure or part thereof shall be located, erected, moved, reconstructed, extended, enlarge, converted, or structurally altered, demolished or removed without a building permit and full compliance with this Chapter. (Revised 09/21/2015)

**6.0603 Permitted Uses**

Permitted uses are specified for each district.

**6.0604 Accessory Uses**

Accessory uses are as stated below:

1. Shall be clearly incidental and customarily associated with the operation of a permitted use.
2. Shall be operated and maintained under the same ownership on the same lot.
3. Shall not contain structures or structural features inconsistent with the permitted use.
4. Shall include residential occupancy only with the approval of the Planning and Zoning Commission.
5. Shall be allowed after permitted use is present or under construction.
6. Shall not involve the conduct of any business, trade, or industry when accessory to residential district permitted uses, except for home and professional operations as defined herein.

#### 6.0605 Conditional Uses

Along with their accessory uses, the Planning and Zoning Commission and approval by the City Council shall allow conditional uses in specified districts after review, public hearings, and recommendation. Applications for conditional use will utilize the building permit process.

#### 6.0606 Uses not Specified

Uses not specified may be allowed in districts with the recommendation by the Planning and Zoning Commission and approval by the City Council provided they are similar in character in the district.

Any lot in existence prior to the effective date of this chapter and held in separate ownership different from the ownership of adjoining lots may be used for the erection of a structure conforming to the use regulations of the district in which it is located with the approval of the Building Inspector, or other designated official, even though its dimensions are less than the minimum requirements of this ordinance.

#### 6.0607 Non-Conforming Uses and structures

The nonconforming uses of any water, 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. 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. A non-conforming use shall not be extended, enlarged, substituted, or moved.
3. No non-conforming building, structure or use shall be changed to another non-conforming use.
4. A non-conforming use of a building or premises that has been abandoned or altered shall not thereafter be returned to such non-conforming use.

Nothing in this chapter shall be interpreted as authorization for 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.

The Building Inspector, or other designated official shall issue a "Certificate of Non-Conforming Use" to all owners of property that does not conform to the provisions of the use zone in which the property is located.

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.

No permit or license shall be issued to any property for which a "Certificate of Non-Conforming Use" has been issued until approved.

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.

The Building Inspector, or other designated official shall compile a file of all nonconforming uses and structures and maintain it in the City Auditor's office listing location, use, and assessed value of structures.

6.0608 Erosion and Sediment Control Plan

An erosion and sediment control plan may be requested by the Planning and Zoning Commission for those uses requiring substantial land modification or earth movement and the plan shall be submitted before a building permit is granted. These plans are to be developed with the appropriate Soil Conservation district and must have their written approval.

A performance bond may be required by the City Council with the amount based on the complexity of control measures. The performance bond will be filed with the City Auditor.

6.0609 New Additions

Unless the owners elect in the petition of annexation to it remain classified as Agricultural new additions, land, or territory, annexed to the city shall become classified as R-1 area without additional procedure and shall become a matter of record by amending the zoning map. New areas annexed for purposes other than R-1 must follow the hearing procedure for ordinance amendments.

**ARTICLE 7 - Use Districts**

6.0701 Use Districts

The City is divided into the following Use Districts to be known as:

- R-1 Residential Districts
- R-2 Residential Districts
- R-3 Residential Districts
- C-1 Commercial Districts
- C-2 Commercial Districts
- C-3 Commercial Highway
- IND Industrial Districts
- M-H Mobile Home Park
- SU-1 Special Use District 1
- SU-2 Special Use District 2
- SU-3 Special Use District 3
- SU-4 Special Use District 4
- SU-5 Special Use District 5
- SU-6 Special Use District 6
- A Agricultural
- PUD Planned Unit Development District

The boundaries of the districts appear on a map designated as the zoning map, and all notations, references, and other information shown are a part of this chapter and have the same force and effect as this chapter. The zoning map shall be maintained in the City Auditor's office.

When uncertainty exists with respect to the boundaries of the various districts, the following rules apply:

1. In unsubdivided property, the district boundary line shall be determined by the use of the scale or dimensions appearing on the map.
2. Where the property line is divided into blocks and lots, the boundaries shall be construed to be lot lines.
3. Boundaries following streets, alleys, roads, or highways shall be the centerlines unless otherwise indicated.

4. Where uncertainties may exist the boundary line shall be determined by the Planning and Zoning Commission and indicated on the zoning map.

## **ARTICLE 8 - Residential Districts**

### **6.0801 Accessory Uses in Residential Districts**

The following accessory uses and buildings are permitted in residential districts:

1. Professional office for a physician, clergyman, architect, engineer, attorney or similar professional person residing in such main building.
2. 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.
3. Agricultural uses, gardens, poultry enclosures.
4. Private garages.
5. Shall not contain structures or structural features inconsistent with the permitted use.

### **6.0802 R-1 – Residential Districts**

In a R-1 residential district, the following buildings and uses are permitted:

1. Dwelling houses occupied by not more than two families.
2. Publicly owned and operated buildings.
3. Churches and parish houses.
4. Playgrounds and Parks.

The minimum lot size shall be 75 feet wide with a minimum area of 10,500 square feet. This applies only to property annexed after 1984.

The principal building and all accessory buildings shall not cover more than 35 percent of the lot.

Each lot shall have a front yard not less than 30 feet measured from the foundation, and conform to the front yard of adjoining properties. When a lot abuts section lines the minimum building setbacks measured from the section line, shall be frontage road plus 30 feet.

Each lot shall have two side yards, one on each side of the principal building and shall not be less than 5 feet measured from the outermost projection of the building.

Each lot shall have a rear yard with a depth of not less than 25 feet from the principal building. For each accessory use, there shall be a minimum setback of 3 feet from the rear lot line.

A garage must have a ramp of 20 feet in length from the foundation of the garage to the property line.

No building shall exceed 2 ½ stories, nor exceed 35 feet in height.

Fences must have a building permit and be located within the property line.

Hedges shall conform to the Forestry Ordinance, Chapter 17.

Parking regulations are stated in Article 16.

Sign regulations are stated in Article 18.

Basement apartments must have fire exits other than the normal entrance.

Accessory uses customarily incidental to the permitted uses in section 6.0801 and 6.0604.

When a lot abuts State or Federal Highways within the city limits access shall be limited to 1 per 600 feet. The landowner shall provide for frontage road or deed to the nearest 600 foot access point to a public highway. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

When a lot abuts State or Federal Highways outside the city limits access shall be limited to 1 per quarter mile. The landowner shall provide for a frontage road or deed to the nearest quarter mile access point to a public highway. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

#### 6.0803 R-2 - Residential Districts

In a R-2 residential district, the following buildings and uses are permitted:

1. Dwelling houses occupied by not more than two families.
2. Publicly owned and operated buildings.
3. Churches and parish houses.
4. Playgrounds and Parks.
5. Modular sectional homes with a minimum width of 24 feet, a Minimum floor space of 1100 square feet on the main floor, and must be on permanent foundation, with a gabled, shingled roof.

The minimum lot size shall be 75 feet wide with a minimum area of 10,500 square feet. This applies only to property annexed after 1984.

The principal building and all accessory buildings shall not cover more than 35 percent of the lot.

Each lot shall have a front yard not less than 30 feet measured from the foundation, and conform to the front yard of adjoining properties. When a lot abuts section lines the minimum building setbacks measured from the section line, shall be frontage road plus 30 feet.

Each lot shall have two side yards, one on each side of the principal building and shall not be less than 5 feet measured from the outermost projection of the building.

Each lot shall have a rear yard with a depth of not less than 25 feet from the principal building, exclusive of a 10 foot easement for an alley. For each accessory use, there shall be a minimum setback of 3 feet from the rear lot line.

A garage must have a ramp of 20 feet in length from the foundation of the garage to the property line..

No building shall exceed 2 ½ stories, nor exceed 35 feet in height.

Fences must have a building permit and be located within the property line.

Hedges shall conform to the Forestry Ordinance, Chapter 17.

Parking regulations are stated in Article 16.

Sign regulations are stated in Article 18.

Basement apartments must have fire exits other than the normal entrance.

Accessory uses customarily incidental to the permitted uses in section 6.0801 and 6.0604.

When a lot abuts State or Federal Highways within the city limits access shall be limited to 1 per 600 feet. The landowner shall provide for frontage road or deed to the nearest 600 foot access point to a public highway. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

When a lot abuts State or Federal Highways outside the city limits access shall be limited to 1 per quarter mile. The landowner shall provide for a frontage road or deed to the nearest quarter mile access point to a public highway. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

#### 6.0804 R-3 - Residential Districts

In a R-3 residential district the following buildings and uses are permitted:

1. Dwelling houses occupied by single, two or more families.
2. Publicly owned and operated buildings.
3. Churches and parish houses.
4. Playgrounds and Parks.
5. Modular sectional homes with a minimum width of 24 feet, a Minimum floor space of 1100 square feet on the main floor, and must be on permanent foundation, with a gabled, shingled roof.
6. Private clubs.
7. Lodges or social buildings.
8. Hotels, motels, tourist camps.

The minimum lot size shall be 75 feet wide with a minimum area of 10,500 square feet. This applies only to property annexed after 1984.

The principal building and all accessory buildings shall not cover more than 35 percent of the lot.

The minimum lot size shall be 75 feet wide with a minimum area of 10,500 square feet, plus 1,000 feet for each additional living unit over 1 in number.

Each lot shall have a front yard not less than 30 feet measured from the foundation, and conform to the front yard of adjoining properties. When a lot abuts section lines the minimum building setbacks measured from the section line, shall be frontage road plus 30 feet.

Each lot shall have two side yards, one on each side of the principal building and shall not be less than 5 feet measured from the outermost projection of the building.

Each lot shall have a rear yard with a depth of not less than 25 feet from the principal building. For each accessory use, there shall be a minimum setback of 3 feet from the rear lot line.

A garage must have a ramp of 20 feet in length from the foundation of the garage to the property line.

No building shall exceed 35 feet in height. Accessory structures shall not exceed 25 feet

Fences must have a building permit and be located within the property line.

Hedges shall conform to the Forestry Ordinance, Chapter 17.

Parking regulations are stated in Article 16.

Sign regulations are stated in Article 18.

Basement apartments must have fire exits other than the normal entrance.

Accessory uses customarily incidental to the permitted uses in section 6.0801 and 6.0604.

When a lot abuts State or Federal Highways within the city limits access shall be limited to 1 per 600 feet. The landowner shall provide for frontage road or deed to the nearest 600 foot access point to a public highway. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

When a lot abuts State or Federal Highways outside the city limits access shall be limited to 1 per quarter mile. The landowner shall provide for a frontage road or deed to the nearest quarter mile access point to a public highway. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

## **ARTICLE 9 – COMMERCIAL DISTRICTS**

### **6.0901 Accessory Uses in Commercial Districts**

The following accessory uses and buildings are permitted:

1. Professional office for a physician, clergyman, architect, engineer, attorney or similar professional person residing in such main building.
2. 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.
3. Agricultural uses, gardens, poultry enclosures.
4. Private garages.
5. Shall not contain structures or structural features inconsistent with the permitted use.
6. Retail stores and shops.
7. Service establishments.
8. Business and professional offices.
9. Eating establishments.
10. Funeral homes and mortuaries.
11. Transportation services.
12. Amusements and recreation.

13. Wholesale businesses.
14. Storage buildings and warehouses.
15. Any other building or use similar to the uses herein listed in the type of services or goods sold.
16. Any accessory use customarily incident to a use herein listed.

6.0902 C-1 Commercial District

Lots shall be a minimum width of 25 feet, with no minimum area.

No structures shall exceed 35 feet in height.

Fences must have a building permit and be located within the property line.

Hedges shall conform to the Forestry Ordinance, Chapter 17.

Parking regulations are stated in Article 16.

Loading and unloading are stated in Article 17.

Sign regulations are stated in Article 18.

Accessory uses customarily incidental to the permitted uses in section 6.0901.

6.0903 C-2 Commercial District

Lots shall be a minimum width of 50 feet, with a minimum area of 6,000 square feet.

Each lot shall have a front yard not less than 15 feet measured from the foundation, and conform to the front yard of adjoining properties.

Each lot shall have two side yards, one on each side of the principal building and shall not be less than 5 feet measured from the outermost projection of the building.

Each lot shall have a rear yard with a depth of not less than 25 feet.

No structures shall exceed 35 feet in height.

A buffer strip of trees or other natural growth, approved by the Planning and Zoning Commission shall provide a sight and sound barrier when a commercial use is adjacent to a residential district.

Fences must have a building permit and be located within the property line.

Hedges shall conform to the Forestry Ordinance, Chapter 17.

Parking regulations are stated in Article 16.

Loading and unloading are stated in Article 17.

Sign regulations are stated in Article 18.

Accessory uses customarily incidental to the permitted uses in section 6.0901.

When a lot abuts State or Federal Highways within the city limits access shall be limited to 1 per 600 feet. The landowner shall provide for frontage road or deed to the nearest 600-foot access point to a public



highway. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

When a lot abuts section lines outside the city limits the minimum building setbacks measures from the centerline or from the section line shall be frontage road plus 30 feet and access shall be limited to 1 per quarter mile. The landowner shall provide for a frontage road or deed to the nearest access point to a public highway. Lots having double frontage must provide the required front yards or setbacks on both frontages. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

#### 6.0904 C-3 Highway Commercial District

Lots shall be a minimum width of 50 feet, with a minimum area of 6,000 square feet.

Each lot shall have a front yard not less than 15 feet measured from the foundation, and conform to the front yard of adjoining properties.

No structures shall exceed 35 feet in height.

A buffer strip of trees or other natural growth, approved by the Planning and Zoning Commission shall provide a sight and sound barrier when a commercial use is adjacent to a residential district.

Fences must have a building permit and be located within the property line.

Hedges shall conform to the Forestry Ordinance, Chapter 17.

Parking regulations are stated in Article 16.

Loading and unloading are stated in Article 17.

Sign regulations are stated in Article 18.

Accessory uses customarily incidental to the permitted uses in section 6.0901.

When a lot abuts State or Federal Highways within the city limits access shall be limited to 1 per 600 feet. The landowner shall provide for frontage road or deed to the nearest 600-foot access point to a public highway. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

When a lot abuts section lines outside the city limits the minimum building setbacks measures from the centerline or from the section line shall be frontage road plus 30 feet and access shall be limited to 1 per quarter mile. The landowner shall provide for a frontage road or deed to the nearest access point to a public highway. Lots having double frontage must provide the required front yards or setbacks on both frontages. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

### **ARTICLE 10 – INDUSTRIAL DISTRICT**

#### 6.1001 General Requirements

Lots shall be a minimum width of 50 feet, with a minimum area of 6,000 square feet.

No structures shall exceed 35 feet in height.

Fences must have a building permit and be located within the property line.

Hedges shall conform to the Forestry Ordinance, Chapter 17.

A buffer strip of trees or other natural growth, approved by the Planning and Zoning Commission shall provide a sight and sound barrier on enlarged side and rear yards when an industrial use is adjacent to a residential district.

Parking regulations are stated in Article 16.

Loading and unloading are stated in Article 17.

Sign regulations are stated in Article 18.

All buildings erected on any lot and any additions or alterations shall be of permanent construction.

Except for sidewalks, driveways, and parking areas all front and side yards on the street side of a building shall be planted in grass or other ground cover and shrubs, trees, and plant material.

When a lot abuts State or Federal Highways within the city limits access shall be limited to 1 per 600 feet. The landowner shall provide for frontage road or deed to the nearest 600 foot access point to a public highway. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

When a lot abuts section lines outside the city limits the minimum building setbacks measures from the center line or from the section line shall be frontage road plus 30 feet and access shall be limited to 1 per quarter mile. The landowner shall provide for a frontage road or deed to the nearest access point to a public highway. Lots having double frontage must provide the required front yards or setbacks on both frontages. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

#### 6.1002 Uses Permitted

The compounding, assembly, treatment, manufacture, processing and packing of articles or materials shall be permitted in the industrial district.

The following buildings and uses are permitted in the industrial district:

1. All uses permitted in a C - Commercial District, except residential use.
2. Dwelling or dwelling units may be allowed for caretakers or guards.

#### 6.1003 Uses Permitted by Special Permit and Approval of Planning and Zoning Commission

1. Asphalt manufacture or refining.
2. Oilcloth or linoleum manufacture.
3. Paint, oil (including linseed), shellac, turpentine, lacquer or varnish manufacture.
4. Quarry or stone mill.
5. Wool pulling or scouring.
6. Any other trade, industry, or use that will be no more injurious, hazardous, noxious, or offensive than those listed.

#### 6.1004 Uses Prohibited

1. Acetylene, gas manufacture or bulk storage.
2. Ammonia, bleaching powder or chlorine manufacture or storage.

3. Chemical manufacture or storage.
4. Concrete or cement products manufacture.
5. Iron or steel foundry or fabrication plant and heavy weight casting.
6. Sodium compounds manufacture.
7. Petroleum products manufacture or wholesale storage.
8. Salvage and Junk Yards.
9. Any other trade, industry, or use that will be injurious, hazardous, noxious, or offensive to an extent equal to or greater than those enumerated.

#### **ARTICLE 11 – Mobile Home Park District**

##### 6.1101 Permitted Uses

The permitted uses are:

1. Mobile Homes.
2. Community recreation facilities.
3. Parks and Playgrounds.

##### 6.1102 General Requirements

The minimum park size shall be 1 acre.

The minimum lot size width shall be 50 feet with a minimum area of 5,000 feet.

The ground area occupied by a mobile home, attached storm shed, patio, storage building, and off-street parking shall not exceed 50 percent of the lot. In compiling the ground coverage, 360 square feet shall be added to the actual area of the mobile home dwelling and the accessory building for the 2 required off-street parking spaces. This provision limits a lot to 1 storm shed not over 120 square feet in area, and shall be placed on a proper foundation.

Each lot shall have a front yard not less than 10 feet, and conform to the front yard of adjoining units.

Each lot shall have a side yard not less than 10 feet, with the following permitted encroachments:

1. Patios without roofs or walls may project 5 feet.
2. Outdoor steps may project 3 feet.
3. Window canopies.

Each lot shall have a rear yard not less than 10 feet.

Recreation areas shall be provided in a park of 10 units or more for the exclusive use of the occupants, with a minimum area of 10 percent of the total area of the park, and shall be of appropriate design and provided with adequate and permanent equipment.

All lawns shall be seeded or sodden within 1 year of issuance of the occupancy permit unless the Planning and Zoning Commission grants an extension.

All mobile homes shall be equipped with compatible skirts to completely enclose the underside. An adequate size access door shall be provided at the closest point to the water hookup and shall not have any porch or steps hindering access. City employees are not required to crawl into the access area, which remains the responsibility of the owner to do, or have done.

Fences must have a building permit and be located within the property line.

Hedges shall conform to the Forestry Ordinance, Chapter 17.

Parking regulations are stated in Article 16.

Sign regulations are stated in Article 18.

When a Park abuts State or Federal Highways within the city limits access shall be limited to 1 per 600 feet. The landowner shall provide for frontage road or deed to the nearest 600-foot access point to a public highway. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

When a park abuts section lines, or State or Federal Highways, outside the city limits the minimum building setbacks measures from the centerline or from the section line shall be frontage road plus 30 feet and access shall be limited to 1 per quarter mile. The landowner shall provide for a frontage road or deed to the nearest access point to a public highway. Parks having double frontage must provide the required front yards or setbacks on both frontages. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

## **ARTICLE 12 – Special Use Districts**

### **6.1201 Permitted Use**

These districts include any area that does not fit into the residential, commercial, or industrial use districts. Uses and restrictions will be established at the time of establishment.

1. SU-1 Public recreation only
2. SU-2 Public recreation only
3. SU-3 All uses of commercial C-3, except residential
4. SU-4 Nursing home only
5. SU-5 Highway Department use only, consisting of buildings, equipment and supply storage
6. SU-6 Electrical Cooperative use only, consisting of buildings, equipment and supply storage

## **ARTICLE 13 – Agricultural District**

### **6.1301 Permitted Use**

All usual buildings, structures, and operations incidental to the operation of a farm or ranch are permitted, except commercial animal feedlots are prohibited.

### **6.1302 Conditional Use**

The following conditional uses are allowed upon application with the written evidence of approval by the landowner, and providing any information the Planning and Zoning Commission may desire:

1. Electrical transmission lines shall have minimal interference with farming operations.

2. City, Commercial, and Industrial pipelines
3. Commercial radio, television, or microwave transmitting stations
4. Water or Sewer storage, pumping, lift stations, disposal plants, and solid waste landfills
5. Mineral exploration operations, including governmental agencies, shall post a reclamation bond in the amount of \$10,000.00, which shall cover a total of 10 excavations. The applicant shall furnish a map of all operations to the Planning and Zoning Commission.
6. Excavation and mining operations shall require a public hearing held within the city concerning the site location, needs of operation, company employees, roads, housing, city facilities and services. The applicant shall provide a copy of all information submitted to the Public Service Commission and evidence of their approval. No operation shall take place within 250 feet of an adjacent property line plus 1 foot for each vertical foot of excavation unless a written agreement is made with the property owner and submitted to the Planning and Zoning Commission.
7. Commercial sand and gravel operations shall not take place with 30 feet of an adjacent property line or 400 feet of a residence unless a written agreement is made with the property owner and submitted to the Planning and Zoning Commission. The operation shall conform to all requirements regarding preservation, removal, or relocation of historical or archeological artifacts, and shall post a performance bond in an amount determined by the City Council for each application.
8. Railroad operations shall not be placed within 125 feet of a residence unless a written agreement is made with the property owner and submitted to the Planning and Zoning Commission. The operation shall conform to all requirements regarding preservation, removal, or relocation of historical or archeological artifacts.

When a property abuts State or Federal Highways within the city limits access shall be limited to 1 per 600 feet. The landowner shall provide for frontage road or deed to the nearest 600-foot access point to a public highway. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

When a property abuts section lines, or State or Federal Highways, outside the city limits the minimum building setbacks measures from the centerline or from the section line shall be frontage road plus 30 feet and access shall be limited to 1 per quarter mile. The landowner shall provide for a frontage road or deed to the nearest access point to a public highway. Property having double frontage must provide the required front yards or setbacks on both frontages. Written evidence of approval by appropriate highway authorities shall be provided to the Planning and Zoning Commission.

**ARTICLE 14 – Planned Unit Development District**

**6.1401 Reserved for Future Use**

## **ARTICLE 15 - Enforcement**

### **6.1501 Building Inspector**

Except as otherwise provided herein the Building Inspector, or other designated official shall administer and enforce the provisions of this chapter, including the receiving of applications, the inspection of premises and the issuing of building permits. No building permit or certificate of occupancy shall be issued except where the provisions of this chapter have been complied.

### **6.1502 Building Permits**

No building or structure shall be erected, added to or structurally altered until the Building Inspector, or other designated official therefore has issued a permit. All applications shall be in accordance with the requirements herein and, unless upon written order of the Planning and Zoning Commission, no such building permit or certificate of occupancy, shall be issued for any building where said construction, addition or alteration or use thereof would be in violation of this chapter.

There shall be submitted with all applications a layout drawn on the reverse side, or separate sheets as necessary, showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this ordinance.

The Building Inspector, or other designated official shall not inspect the property until the application has been completed and the fee as set in the Fees and Rates Resolution has been paid. If the application meets the requirements of this chapter the Building Inspector, or other designated official may issue the permit and turn it into the City Auditor for City Council acknowledgement. If the Building Inspector, or other designated official cannot approve the application it will be referred to the Planning and Zoning Commission for their action and recommendation to the City Council, who shall have final approval or disapproval.

In the event the project has not been started within the calendar year the permit is issued it shall be cancelled, unless the Building Inspector, or other designated official grants an extension.

### **6.1503 Certificates of Occupancy**

No land shall be occupied or used and no building erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Building Inspector, or other designated official, stating that the building or proposed use thereof complies with the provisions of this chapter. No permit for excavation for, or the erection or alteration of or repairs to any building shall be issued until an application has been made for the certificate of occupancy.

All lawful non-conforming uses must obtain the Occupancy permit within 3 months after adoption of this chapter. Failure to do so may be considered evidence the non-conforming use did not lawfully exist at the effective date of this chapter.

No non-conforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued by the Building Inspector, or other designated official.

All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificate shall be issued within 10 days after the erection or alteration shall have been approved.

It shall be unlawful for any association, company, person, firm, cooperative, or corporation to supply electrical current or power to any building or structure, unless the Building Inspector, or other designated official, certifying the building or structure, has issued an Occupancy Permit in conformance with this chapter.

The Building Inspector, or other designated official may issue a 30-day temporary certificate of occupancy for a part of a building. The City Auditor shall maintain a record of all certificates and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected.

## **ARTICLE 16 – Off-Street Parking Regulations**

### **6.1601 Parking Regulations**

No application for a building permit or certificate of occupancy shall be approved unless there is included in the plan an open space designated as reserved for off-street parking. Off-street parking shall be provided on the minimum requirements set forth in this chapter.

### **6.1602 Use Requirements**

In case of structures or uses not mentioned, the requirements for a similar use shall apply.

1. Single family dwellings shall have 1 space.
2. Multiple family dwellings shall have 1.5 spaces for each dwelling unit.
3. Schools shall have 1 space for each 2 employees plus one space for each classroom.
4. Hospitals shall have 1 space for each 2 patient beds, plus 1 space for each doctor, and 1 space for each 2 employees.
5. Places of public assembly shall have 1 space for every five seats, based on maximum seating.
6. Commercial dining and drinking establishments shall have 1 space for each 4 seats.
7. Hotels and rooming houses shall have 1 space for each 2 guest rooms.
8. Motels shall have 1 space for each guest room.
9. Theaters shall have 1 space for each 5 seats.
10. Retail establishments shall have 1 space for each 500 square feet of floor area.
11. Office buildings shall have 1 space for each 500 square feet of floor area.
12. Manufacturing, wholesale, and industrial establishments shall have 1 space for each 2 employees, 1 space for each piece of company owned or leased rolling stock, and 1 visitor parking space for each 10 employees.

### **6.1603 General Requirements**

Off-street parking shall be located on the same zone lot; but, because of practical difficulties, may be located on another parcel of land under the same ownership within 400 feet and shall be 180 square feet or more exclusive of the space required for ingress and egress.

All off-street parking areas shall be graded and surfaced so as to be dust free and properly drained.

Off-street parking shall be a continuing obligation so long as the structure is in existence and its use requiring vehicle parking continues. Buildings, storage, or any other use shall not encroach upon the off-street parking area. A reduction in the number of spaces, by reason of diminution of floor space, seating capacity, number of employees, or change in other factor controlling the number of required spaces, by the Zoning Commission must be both reasonable and consistent with the intent of this chapter.

These requirements are not intended to prohibit joint off-street parking facilities but the minimum number of spaces required for each use shall be measured separately.

Plans with mixed uses shall provide spaces equal to the sum of the requirements of the various uses computed separately.

**ARTICLE 17 – Loading and Unloading Regulations**

No application for a building permit or certificate of occupancy shall be approved unless there is included in the plan the required space of structural design for off-street loading purposes to be provided in accordance with this chapter on the basis of the minimum requirements.

Each department store, freight terminal, railroad yard, hospital, industrial plant, manufacturing establishment, retail establishment, storage warehouse, or wholesale establishment which has an aggregate gross floor area of 25,000 square feet or more shall provide off-street loading or unloading berths in accordance with the following table:

Square feet of Gross floor area _____	Required number of Berths
25,000 but less than 40,000 _____	1
40,000 but less than 80,000 _____	2
80,000 but less than 120,000 _____	3
120,000 but less than 160,000 _____	4
160,000 but less than 240,000 _____	5
For each additional 50,000 _____	1

All loading and unloading operations shall be located to avoid interference with public use of streets, alleys, and walkways. These spaces shall not be located in the front of the structure, except for Industrial Districts.

**ARTICLE 18 – Sign Regulations**

All signs outside the jurisdiction of Chapter 24-17 of the North Dakota Century Code shall comply with this chapter. Additionally, the following sign types are deemed outside the jurisdiction of this chapter.

1. Signs required by law or authorized for a public purpose.
2. Official traffic control, parking restriction, or informational traffic signs.
3. Danger or warning signs of a cautionary nature.
4. Building name signs.
5. Cornerstones and historical markers.
6. Real estate for sale, rental, or lease signs.
7. Name plates and addresses.
8. Window displays of actual merchandise.



#### 6.1801 General Requirements

Signs shall be incidental to the permitted use and shall be located on the same zone lot.

Signs shall be maintained in good repair. Broken signs, deteriorated signs, or signs on vacant buildings may be ordered repaired or removed.

Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices, nor shall they obstruct or interfere with effectiveness of railroad or traffic signs, signals or devices.

No sign shall be permitted to face a residential district, unless the sign is located on the lot on which the use the sign relates to is located, and its location has been approved by the Zoning Commission.

Signs unlawfully existing at the time of adoption of this chapter may be continued although the use, size, or location does not conform. However, they shall be deemed non-conforming uses or structures and the provisions of 6.0607 shall apply.

#### 6.1802 District Requirements

Residential districts having home and professional occupations shall be permitted 1 non-illuminated and non-animated sign of 3 square feet and placed on the building.

Commercial and Industrial districts shall be permitted signs totaling 200 square feet, and

1. If on the wall of any structure, the maximum height shall be 40 feet, and
2. If a free standing sign, the maximum height shall be 25 feet.

#### 6.1803 Advertising Signs

Advertising signs not located on the premise of the business being advertised are prohibited within one-half (1/2) mile of the City limits. Signs existing at the time of adoption of this section (August 5, 2013) may be continued although the use, size or location does not conform. However, they shall be deemed non-conforming uses or structures and the provisions of 6.0607 shall apply.

### **ARTICLE 19 - Cando Airport Zoning**

#### 6.1901 Authority

This Article shall be known as Cando Airport Zoning . (Chapter 2-04 North Dakota Century Code.)

#### 6.1902 Definitions

As used in this section, unless the context otherwise requires:

1. AIRPORT – Means Cando Municipal Airport
2. AIRPORT ELEVATION – 1478 feet above mean sea level.
3. APPROACH SURFACE – A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in 6.1904. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

4. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES – These zones are set forth in 6.1903.
5. PLANNING AND ZONING COMMISSION – A board as provided in Article 2.
6. CONICAL SURFACE – A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
7. HAZARD TO AIR NAVIGATION – An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
8. HEIGHT – For the purpose of determining the height limits in all zones shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
9. HORIZONTAL SURFACE – A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
10. LARGER THAN UTILITY RUNWAY – A runway that is constructed for or intended to be used by propeller driven aircraft greater than 12,500 pounds maximum gross weight and jet powered aircraft.
11. NONCONFORMING USE – Any pre-existing structure, object of natural growth, or use of land, which is inconsistent with the provisions of this chapter.
12. NONPRECISION INSTRUMENT RUNWAY – A runway having an existing instrument approach procedure utilizing air navigation equipment, for which a straight-in nonprecision instrument approach has been approved or planned.
13. OBSTRUCTION – Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Ordinance.
14. PERSON – An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; including a trustee, a receiver, an assignee, or a similar representation of any of them.
15. PRIMARY SURFACE – A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in 6.1904. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
16. RUNWAY – A defined area on an airport prepared for landing and take-off of aircraft.
17. STRUCTURE – An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
18. TRANSITIONAL SURFACES – These surfaces extend outward at 90-degree angles to the runway centerline and extend at a slope of 7 feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.
19. TREE – Any object of natural growth.
20. UTILITY RUNWAY – A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

21. VISUAL RUNWAY – A runway intended solely for the operation of aircraft using visual approach procedures.

#### 6.1903 Airport Zones

In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Cando Airport. Such zones are shown on the Cando Airport Zoning Map consisting of one sheet, prepared by the Airport Engineer, which is attached to this Ordinance and made a part hereof. An area located in more than 1 of the zones is considered to be the only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Utility Runway Visual Approach Zone – The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. Utility Runway with Non-Precision Instrument Approach Zone – The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. Runway Larger Than Utility Visual Approach Zone – The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
4. Runway Larger Than Utility With A Visibility Minimum Greater Than ¾ Mile Nonprecision Instrument Approach Zone – The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
5. Transitional Zones – The transitional zones are the areas beneath the transitional surfaces.
6. Horizontal Zone – The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
7. Conical Zone – The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

#### 6.1904 Airport Zone Height Limitations

Except as otherwise provided in this chapter, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone to a height in excess of the applicable height limit established for such zone. These applicable height limitations are established for each of the zones in question as follows:

1. Utility Runway Visual Approach Zone – Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Utility Runway Non-Precision Instrument Approach Zone – Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

3. Runway Larger Than Utility Visual Approach Zone – Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
4. Runway Larger Than Utility With a Visibility Minimum Greater Than ¾ Mile Nonprecision Instrument Approach Zone – Slope 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
5. Transitional Zones – Slope 7 feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. The airport elevation is 1478 feet above mean sea level. In addition, there are established height limits sloping 7 feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface.
6. Horizontal Zone – Established at a height of 1628 feet above mean sea level.
7. Conical Zone – Slope 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
8. Exception Height Limitations – Nothing in this chapter shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 75 feet above the surface of the land.

#### 6.1905 Use Restrictions

Notwithstanding any other provisions of the chapter, no use may be made of land or water in a manner to create electrical interference with navigational signals or radio communications between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft.

#### 6.1906 Nonconforming Uses

1. Regulations Not Retroactive – This Article shall not be construed to require the removal, lowering, or alteration of any structure or tree not conforming to the regulations as of the effective date of this chapter, or otherwise interfere with the continuance of nonconforming use. Nothing shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted.
2. Marking and Lighting – Notwithstanding 6.1906 sub-paragraph 1, the owner of any existing nonconforming structure is required to permit installation, operation, and maintenance thereon of markers and lights as deemed necessary by the Public Works Superintendent, to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Cando Airport.

#### 6.1907 Permits

The Director, or manager, of the Cando Airport will perform the duties of Building Inspector for any permits required.

Except as provided in 1, 2, and 3 below, no change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone unless a building permit therefore shall have been applied for and granted. Each application shall indicate the purpose for which the permit is desired, with sufficient particularity to determine whether the resulting use, structure or tree would conform. No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved.

1. Within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits.
2. Within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five feet of vertical height from above ground, except when it would extend above the height limit.
3. Within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet of the vertical height above ground, except when such tree or structure, because of terrain, land contour, or topographical features, would extend above the height limit.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits except as set forth in 6.1906.

No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this chapter or than it is when the application of a permit is made.

Whenever the Public Works Director, determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such a structure or tree to exceed the applicable height limit.

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this chapter may apply to the Planning and Zoning Commission for a variance. The application shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this chapter. Additionally, the Planning and Zoning Commission may consider no application for variance unless a copy of the application has been furnished to the Cando Airport Authority for advice as to the aeronautical effects of the variance. If the Cando Airport Authority does not respond to the application within 15 days after receipt, the Planning and Zoning Commission may act on its own to grant or deny said application.

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Planning and Zoning Commission, this condition may be modified to require the owner to permit the Cando Airport, at its own expense, to install, operate, and maintain the necessary markings and lights.

#### 6.1908 Enforcement

It shall be the duty of the Director of the Cando Airport, to administer and enforce these regulations. Applications for permits and variances shall be made to the Director of the Cando Airport. Applications submitted to the Director of the Cando Airport shall be promptly considered and granted or denied. The Director of the Cando Airport shall forthwith transmit application for action by the Planning and Zoning Commission.

#### 6.1909 Appeals

Any person aggrieved, or any taxpayer affected, by any decision of the Director of the Cando Airport may appeal to the Planning and Zoning Commission.

All appeals must be taken within a reasonable time, by filing with the Director of the Cando Airport, a notice of appeal specifying the grounds thereof. The Director of the Cando Airport shall transmit to the Planning and Zoning Commission all papers of record upon which the action appealed from was taken.

Any appeal shall stay all proceedings in furtherance of the action appealed from unless the Director of the Cando Airport, certifies to the Planning and Zoning Commission, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Director of the Cando Airport, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Planning and Zoning Commission, and on due cause shown.

The Planning and Zoning Commission shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

The Planning and Zoning Commission may, reverse or affirm, in whole or in part, or modify the order, requirement, decisions, or determination appealed from and may make such order, requirement, decisions, or determination as may be appropriate.

#### 6.1910 Judicial Review

Any person aggrieved, or any taxpayer affected, by any decision of the Planning and Zoning Commission, may appeal as provided in Chapter 2-04 of the laws of the State of North Dakota.

#### 6.1911 Penalties

Each violation of this chapter or of any regulation, order or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 30 days or both; and each day a violation continues to exist shall constitute a separate offense.

It shall be the Municipal Judge's decision to use the sentencing defined in Article 5 of Chapter 13 of the Revised Ordinances of the City of Cando.

#### 6.1912 Severability

If any of the provisions of this chapter or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are declared to be severable.

### **ARTICLE 20 – Fences Hedges and Walls**

1. The maximum height of any residential fence shall be six and one-half feet.
2. All fences shall be constructed of approved fencing material.

3. Fences adjacent to public sidewalks must be held back a minimum of two feet from the sidewalk edge.
4. Placement of sight-obscuring fences, hedges or walls along intersections, alleys, and driveways is regulated to prevent sight restrictions and promote safety for vehicles and pedestrians. In any case fences, hedges, walls and obstructions shall not interfere with traffic and must comply with:
  - a) Sight obscuring fences exceeding thirty-six inches in height (forty-eight inches if seventy-five percent light permeable) will not be permitted to extend beyond established front yard setbacks.
  - b) No sight obscuring fence, hedge, wall or obstruction greater than twenty-four inches in height, measured from the top of the nearest curb, may be placed within the sight triangle formed from the corner of a right-of-way intersection in each direction for a distance of twenty feet. This distance is to be measured from the face of the curb.
  - c) No sight obscuring fence, hedge, wall or obstruction greater than twenty-four inches in height, measured from the top of the nearest curb, shall be placed within the sight triangle formed from the corner of the intersection with an alley a distance of ten feet in each direction. These distances are to be measured from the alley right-of-way line and the street right-of-way line.
  - d) No sight obscuring fence, hedge, wall or obstruction greater than twenty-four inches in height, measured from the top of the nearest curb, shall be constructed within the sight triangle formed from the corner of a driveway and a public right-of-way for a distance of ten feet. These distances shall be measured from the driveway and property line.
  - e) A fence must be completely installed on the owner's property. It shall be the responsibility of the property owner to know the location of property lines.