

## INDEX TO CHAPTER SIX

### ZONING

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## CHAPTER SIX

### ZONING

#### ARTICLE 1 - INTRODUCTION - BOUNDARIES

This chapter provides for City zoning and empowers the City Council to establish zoning priorities; to secure the orderly development of the City; to regulate and restrict therein the location, erection, construction, demolition, reconstruction, alteration, and use of buildings, structures, and land for industry, business, trade, residence, and other uses; to regulate all facets of construction to preserve the historical integrity of the City of Medora; to prevent structures which detract from the aesthetic harmony, style, form, color, proportion, texture or material of the district; to provide for the change in boundaries of the district and to provide regulations for the subdivision of land; to provide minimum specifications for the construction of buildings and sanitary facilities and to provide enforcement of the provisions hereunder.

The area to be included in this chapter shall be as follows:

#### TOWNSHIP 140 NORTH, RANGE 102 WEST, BILLINGS COUNTY, ND:

- Section 22: Southeast Quarter (SE/4); East Half of the Southwest Quarter (E/2 SW/4);
- Section 23: Southwest Quarter (SW/4); West Half of the Southeast Quarter (W/2 SE/4);
- Section 26: West Half (W/2); West Half of the East Half (W/2 E/2);
- Section 27: East Half (E/2); East Half of the West Half (E/2 W/2);
- Section 34: North Half of the Northeast Quarter (N/2 NE/4); Northeast Quarter of the Northwest Quarter (NE/4 NW/4);
- Section 35: North Half of the Northwest Quarter (N/2 NW/4); Northwest Quarter of the Northeast Quarter (NW/4 NE/4);

and such areas outside the corporate limits as allowed by the law of the State of North Dakota.

#### **6.0101 Purpose and Intent**

It is the intent of this Ordinance that the City Zoning Commission shall be final unless properly appealed pursuant to Section 6.0405.

This ordinance is intended to promote the economic, cultural, and general welfare of the people of the City of Medora, and to insure the harmonious and efficient growth and development of the municipality, while considering the City infrastructure and services. The purpose of this ordinance is (1) to ensure the historic preservation of the City of Medora; (2) to ensure that construction within the Medora Historic Integrity District possess cultural, historic or aesthetic significance; and (3) to discourage alterations of existing structures or the construction of new structures which detract from the aesthetic harmony, style, form, color, proportion, texture or materials of the District. Signage is the most prominent visual element within the Medora Historic Integrity District, and is regulated in order to conform with the purposes of this ordinance. The City of Medora intends that state, federal, county, and any other governmental agency administering land within the City's jurisdiction shall comply with this ordinance.

### **6.0102 Interpretation and Application**

This ordinance, shall be interpreted and applied in order to promote the public health, safety and general welfare, and to preserve the aesthetic significance of the City of Medora.

It is not intended by these provisions to interfere with, abrogate or annul rules or permits previously adopted according to the law relating to the use of buildings or premises; nor is it intended to interfere with, abrogate or annul any easements, covenants or agreements between parties; provided, however, that where these provisions conflict with this ordinance, the ordinance shall prevail.

### **6.0103 Severability**

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of said ordinance. The City Council of the City of Medora, North Dakota, hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentence, clauses or phrases may be declared invalid or unconstitutional.

## **ARTICLE 2 - GENERAL PROVISIONS**

### **6.0201 Temporary Uses**

Uses of lands or structures which are deemed allowable by the Medora City Council for a prescribed length of time shall be known as temporary uses and shall require a permit from the Zoning Commission. Temporary uses shall not exceed 30 days.

All conditional or temporary uses granted shall be documented in writing by the City Council. Guidelines established in the City of Medora Zoning Ordinance or other chapters of this ordinance shall not be relaxed through authority of this section unless designated by the City Council as an emergency or as an undue hardship upon applicant.

**6.0202 Set Backs and Side Yards**

Unless modified by the Zoning Commission by the affirmative vote of three members, any portion of all buildings shall have minimum side yards of five (5) feet and be set back at least fifteen (15) feet from the edge of any road or street. Consideration must be given to the positioning of nearby buildings when considering set-back requirements.

**6.0203 Extra Territorial Zoning Jurisdiction**

In the extra territorial zoning jurisdiction, it should be noted that the county zoning rules and regulations may also apply. It is incumbent upon that both county and city zoning be followed in the extra territorial jurisdiction.

**ARTICLE 3 - HISTORICAL INTEGRITY DISTRICT**

**6.0301 Historical Integrity District**

The City of Medora finds that the health, welfare, and economic foundation of the residents of the City of Medora depends to a great extent upon the continuity of the City's history, its buildings, appurtenances, and appearance. In order to protect the City's historical integrity, the entire City and the areas under its zoning jurisdiction are hereby zoned as a Historical Integrity District. All construction, alteration, relocation, appearance and demolition of buildings, and appurtenances shall conform to this ordinance and the procedures specified herein.

**6.0302 Permitted Uses**

Any building, structure, or alteration thereof as described herein, existing or proposed within the City, may be permitted for residential, commercial or public use,

provided that it conforms with the purpose and intent as stated in this ordinance. Any request for a change, addition, deletion, signing, or new construction as described herein must be submitted to the Zoning Commission, except those modifications declared exempt from full zoning regulation.

Notwithstanding any other provision of this ordinance, for all signs, a person wishing to erect or modify a sign must first apply to the Zoning Commission for a permit. If the Zoning Commission and City Council finds the signs comply with this ordinance a permit shall be issued. Upon violation of this ordinance the City Council may take any action specified in this ordinance or any applicable laws in any appropriate court or any remedy that may be justified under this ordinance or the laws of the State of North Dakota. Any sign not permitted under this ordinance shall be removed by the owner, or by a city designee upon order of the City Council.

### **6.0303 Residential Districts**

The City of Medora may establish, within the Historical Integrity District, residential districts, wherein uses will be limited to non-transient living accommodations. Single family and duplex residential uses will be allowed within said districts. Multiple family residential uses will only be permitted if approved by the City of Medora pursuant to the terms of this Chapter.

## **ARTICLE 4 - ADMINISTRATION AND ENFORCEMENT**

### **6.0401 Zoning Commission**

The governing body of the City of Medora shall appoint a commission to be known as the Zoning Commission to counsel the City and apply appropriate regulations to be enforced. In addition to the four (4) persons appointed by the City who are residents of the City or who reside within the territorial limits of the City's zoning authority, the Zoning Commission shall include at least one (1) person residing outside of the corporate limits. Such person shall be appointed by the Board of County Commissioners of Billings County and shall reside within the territorial limits of the zoning regulation authority exercised by the City, if such person is available and will serve on the Zoning Commission. The person appointed by the Billings County Commission shall hold office for five (5) years or the balance of the unexpired term of the County appointee or the balance of the term of the person appointed by the City Council in lieu of the County member. The members of the Commission shall be appointed for a term of five (5) years or the balance of an unexpired term. Compensation for the Zoning Commission members shall be set by motion of the governing body of the City of Medora.



and if a member of said Board is unable to serve. When the City acts as a Board of Adjustment, the Mayor may vote as a regular member and four votes are necessary to reverse or amend any order, requirement, decision or determination of the Zoning Commission. The City Council shall hear the appeal within 30 days. The secretary of the Zoning Commission shall deliver all documents and materials considered by the Zoning Commission. The City Council may require more information from the applicant or affected citizen. The City Council may approve, deny, table, modify, or attach such conditions it deems appropriate to the zoning permit or other request in accordance with the intentions of this ordinance.

In the event that the Zoning Commission is unable to meet to consider a zoning application, whether due to failure to attain a quorum or otherwise, a zoning application may be appealed directly to the City Council, acting as the Board of Adjustment. For the purpose of appeal, failure of the Zoning Board to meet to consider a zoning application shall be deemed a denial of the application.

A decision of the City Council, acting as the Board of Adjustment, may be appealed to the district court in the manner provided in NDCC § 28-34-01.

## **ARTICLE 5 - PERMITS**

### **6.0501 Granting of Permit**

A Permit approved by the City of Medora shall be required prior to the start of any construction or site alteration of any property within the city limits or extraterritorial zoning jurisdiction of the City of Medora. Such permit shall be required for construction or alteration of all structures, whether buildings, fences, or other improvements to any real property. A permit shall not be required for ordinary maintenance and repair of a building, fence or other improvement to real property; nor shall a permit be required for demolition or removal of an existing fence structure.

The City of Medora may grant a permit application upon a showing by the applicant as follows:

#### Continuity

1. All buildings, structures, fences, or other improvements to real property, whether new construction or alteration to an existing structure, shall be positioned on the property in a similar manner as adjacent buildings, structures, fences, or other improvements to the real property. The relationship of height and width shall include roof shape, signs, facades,

windows, door openings, ornaments, scale, and open spaces.

2. The streets shall be arranged as extensions of adjoining streets whenever possible as to not create any undue traffic load on existing adjacent streets; and shall be of a grade and pitch to allow for proper surface drainage, and shall be designed and constructed in accordance with City Engineer specifications.
3. All buildings, structures, fences, or other improvements to real property, whether new construction or alteration to an existing structure, shall promote the aesthetic values of the City of Medora, as evidenced by the existing structures and the desire to conform existing property to the aesthetic significance of the area, including color, style, form, proportion, materials, and texture.

### Materials

The materials and quality of material which comprise a new building, structure, fence, or other improvement to real property, whether new construction or alteration to an existing structure, shall complement and blend with adjacent buildings and the surrounding landscape. The materials and their quality shall include color, texture, trim, decoration, size, and grade.

### Details

The details of a new building, structure, fence, or other improvement to real property, whether new construction or alteration to an existing structure, shall complement the existing architecture.

### Landscaping

Landscaping shall be complementary to the Historical Integrity District. Native grass and trees shall be used whenever possible.

## **6.0502 Exemptions**

This ordinance shall not regulate rehabilitation of windows or doors, insulating of structures, adding rain gutters that are of matching color to the trim or main color of the building, or a replacement when such replacement exactly duplicates the existing physical characteristics, material, and details of the thing replaced. It shall include fences and appurtenant buildings.

### **6.0503 Variances**

In the event that the Zoning Commission finds that the strict compliance with the regulations of the chapter would cause undue hardship because of unique conditions affecting a particular property or development, the Zoning Commission may grant a variance with respect to the provisions of this chapter.

### **6.0504 Construction Permit Procedures**

Any person wishing to establish a subdivision or alter an existing site shall follow the provisions within this chapter affecting construction/building plan approval. All applications for a development permit shall be signed by and filed with the City Auditor. Initial contact is with the City Auditor and final action is taken by the Zoning Commission unless appealed as contemplated by this ordinance.

### **6.0505 Plan Submission**

Any person wishing to initiate a construction plan or site alteration shall contact the City Auditor:

1. To receive pertinent materials on zoning regulations;
2. To clarify development submission procedures;
3. To investigate compatibility with adjacent plats, properties, land uses, and zoning;
4. To examine and investigate area public services including sewer, water, streets, and parks;
5. The submission of a plan application which shows topographic and physical features, colors, exterior materials, height, width, length, roof pitch, proposed streets, proposed lots, plat location, and proposed buildings where applicable. Date, scale, purpose, and the developer's name, address, and telephone number shall also appear on the plan, with any other information requested by the application, Zoning Commission, or City Council.

Following a review of all submitted plans, the City Auditor shall identify potential concerns which may arise at the construction plan phase. Following such a review, the builder may proceed with the submission of the construction plan. Upon resolution by the City, the City shall be compensated by the builder for any construction plans

requiring time or expenditures by the City.

## **6.0506 Construction Plan**

Any person submitting a construction plan shall pay a filing fee determined by the City Council.

The builder shall submit three (3) copies of the plan and related materials.

Notice of the forthcoming zoning hearing shall be mailed by the City Auditor to owners of property within two hundred (200) feet of the affected site, measured from any point on the site. The notice shall be mailed at least seven (7) days prior to the date of the hearing and inform the owner of the date of the hearing.

Consideration of the Construction application shall take place in the following manner:

1. The application and related materials shall be submitted to the City Auditor not less than twelve days prior to the scheduled hearing. The City Auditor shall record the date of filing and present the plat or building plan at the next scheduled meeting of the Zoning Commission.
2. The City Auditor shall make proper public notice of the hearing and a summary of the application at least seven (7) days prior to the hearing date. Notice of the time and place of such hearing shall be published in the official newspaper of the City pursuant to Section 40-47-04 NDCC and posted in the U.S. Post Office in Medora. Notice shall be given to the builder of the time and place of the hearing at least five (5) days in advance of said hearing pursuant to Section 40-48-21 NDCC. The notice shall contain:
  - (a) The time and place of the hearing;
  - (b) A description of any property involved in any zoning change, by street address if streets have been platted or designated in the area affected;
  - (c) A description of the nature, scope, and purpose of the proposed regulation, restriction, or boundary and the reason for the emergency designation;
  - (d) A statement of the time at which the application will be available to the public for the inspection and copying at the office of the City Auditor.
3. Prior to the public hearing the City Auditor may seek comments and

recommendations on the construction or building plan from such city officials as he or she deems appropriate.

4. Any construction plan submitted shall contain such information as required by the Zoning Commission or City Council.

#### **6.0507 Emergency Hearing**

A public hearing on construction application(s) shall be required unless it is determined by the Zoning Commission that an emergency exists. The City Council may override the Zoning Commission's emergency decision if such action is taken within five days of the decision of the Zoning Commission. The reasons for any emergency shall be recorded in the minutes of the Zoning Commission and notice of the proposed emergency request shall be posted in the U. S. Post Office.

Notice of public hearing of an emergency request shall be posted in the U.S. Post Office in Medora at least seven (7) days prior to the time set for said hearing and the City Auditor shall notify owners within 200 feet and such notice shall contain the following items:

1. The time and place of the hearing;
2. A description of any property involved in any zoning change, by street address if streets have been platted or designated in the area affected;
3. A description of the nature, scope, and purpose of the proposed regulation, restriction, or boundary and the reason for the emergency designation;
4. A statement of the times at which the application will be available to the public for inspection and copying at the office of the City Auditor.

#### **6.0508 Approved Construction Permit**

The approved construction or building permit shall be signed by the City Auditor, filed in the office of the City Auditor, and be available for inspection by the public at the construction site.

### **ARTICLE 6 – SIGNS**

## 6.0601 Definitions

**Applied Sign:** A sign mounted or attached flat on a building.

**Architectural Features:** Any interest feature on a building, including windows, doors, arches, panels in brick, wood, etc., brackets, cornice, moldings, etc.

**Banner:** A cloth, cloth-like material, paper, vinyl or other flexible material with a sign or graphic representation thereon.

**Banner Across the Street:** A banner made to be suspended completely across a street or hung from a wire across the street.

**Banner on Front of Building:** A temporary banner mounted in various ways on the front of a building.

**Billboard Signs:** As those generally displayed along highways.

**Cartoon Lettering:** A sign including a representation of cartoon characters of animals, people, or objects.

**Cartoon Sign:** A sign including a representation of cartoon characters of animals, people, or objects.

**Cast Metal Plaque:** A plaque made of metal, signifying to the importance and permanence of its information.

**Directional Sign:** A sign erected by a municipality, government agency, or another organization to provide directions to historic attractions, parking, etc., or information about laws, speed limit, no parking, etc.

**Façade:** The front of a building facing the street.

**Free Standing Sign:** A free-standing, permanent structure, the primary purpose of which is that of being a sign, though it may incorporate other features such as planters, benches, etc.

**Historic Nationally Distributed Sign:** A sign using nationally recognized trademarks or symbols which is either an original or a reproduction of such a sign from past period – for purpose of this ordinance before 1900.

**Historical Sign:** A painted sign conveying purely historical information, rather than advertising.

**Historically Documented Sign for the City of Medora, North Dakota:** A sign that was in actual use in Medora, North Dakota, any time between 1883 and 1900 as shown by an actual photograph of such sign.

**Historically Documented Sign for a Particular Building in Medora, North Dakota:** A sign that was actually used on a certain, particular building in Medora, North Dakota any time between 1883 and 1900 as shown by a photograph of the particular building including such sign.

**Historically Documented Type of Sign:** A type of sign which can be historically documented by a photograph to have been in use between 1883 and 1900.

**Icon Sign:** A sign depicting a physical object such as a shoe.

**Internally Illuminated Sign:** A sign with translucent parts with internal illumination.

**Nationally Distributed Sign:** Any sign using nationally recognized trademarks or symbols.

**Neon Sign:** A neon electric sign hung or displayed.

**Plaque:** A type of sign of purely historical information. It could be either in the form of a fanned paper sign or a painted sign or made of other material.

**Pole Supported Sign:** A sign which is supported by a free-standing post or pole permanently set into the ground and not attached to a building. The sign itself may be mounted directly on the pole or supported by a staff projection from the pole.

**Portable Sign:** Capable of being easily carried by human power at frequent intervals, such as daily.

**Projecting Sign:** A sign which projects at a 90° angle from a building, one end attached to the building and the other either self-supporting or supported by wires, cables, chains; or a similar sign which is hung from a beam or similar support fastened to the front of a building.

**Projected Sign With a Support:** A sign projecting from the front of a building, across the sidewalk, one end of which is supported by the building and the other end being supported by a pole or post extending to the ground.

**Ridge Mounted Signs:** A sign mounted on the ridge of a gable roof.

**Sandwich Board:** A sign that can be placed on the sidewalk and which is easily portable.

**Sign:** A lettered, pictorial, or symbolic representation for the purpose of identifications, advertising, direction, etc., whether painted or otherwise inscribed on the surface of a movable object (such as a board, or painted or otherwise inscribed directly upon a building, etc., or hung as a banner, or displayed visibly in a window).

**Sign Listing Goods and Services:** A handmade sign listing a number of details about what type of goods or services may be found in a business.

**Signs Painted Directly on Walls:** A sign painted directly upon the exterior material of a building (such as brick, stone, or siding boards) or on a fence or similar structure.

**Spot Lighted Sign:** An ordinary sign illuminated at night by a separate incandescent electric light bulb, spot light bulb, or flood light bulb, not part of the actual sign, but only shining against and thereby illuminating an ordinary opaque sign.

**Street Furniture:** Various objects, both movable and immovable that are found along the street, including benches, horse troughs, hitching rails, ornamental or cars or small pieces of machinery, wooden sculptures, barrels, etc.

**Temporary Window Sign:** A sign on paper, cardboard, etc., displayed in a window but easily removed therefrom.

**V-Shaped Sign:** A sign in a V shape when viewed from above, that is a sign consisting of 2 sign boards, the inside ends anchored to a building and both outside ends supported by a pole or post.

**Vehicle Mounted Signs:** Signs or advertisements that are on a vehicle or trailer that can be pulled by a vehicle.

**Vending Machines:** All machines by which money is deposited and goods are dispensed, including ice machines used for ice storage.

**Window Sign:** A window sign painted directly on the inside of the glass of a window, which is intended to be permanent.

## **6.0602                    General Conditions of Signs**

1. No new exterior signs or signs inside windows shall be permitted except as authorized by this ordinance.

2. All new signs shall require a permit from the Zoning Commission.
3. Reproduction of historically documented original signs is to be encouraged.
4. The color of the signs shall not conflict with traffic signals.
5. Signs shall be properly mounted and maintained so as not to be a hazard.
6. To enhance the photographic qualities of the historic area and reduce visual clutter, a minimum of directional, as well as other types of signage is encouraged. Directional signs shall adhere to color, lettering, and other rules as well as business signs.
7. Materials for Signs:
  - (a) The following materials for the construction of signs are permitted: wood (3/4" thick to 2" thick); steel; cast metal; sheet metal; brass; bronze; canvas; paint; glass; gold leaf.
  - (b) The following materials are prohibited: Plastic, styrofoam, vinyl, plastic decals, shiny metal surfaces (other than brass and gold leaf), sequins, shimmering and similar surfaces.
8. Materials for the Support of Signs:
  - (a) Historic materials are to be encouraged.
  - (b) Use of pipe should be avoided.
  - (c) No unpainted, galvanized or shiny pipe, chains, plumbers tape, etc.
  - (d) Support material should show good craftsmanship, and shall be colored or painted to complement the overall architectural integrity of the building.
9. Colors:
  - (a) Since the colors and lettering styles probably have more effect of the authentic look of signs than almost any other factor, it is important to address them in this ordinance. Colors shall be subdued.
  - (b) Signs should have two major colors only – the background and a contrasting color for the letters.

- (c) Two minor colors, used for shading and ornaments, may also be used.
- (d) All colors used on a sign should harmonize with each other, and with the building and the general feeling of the historic district.
- (e) Fluorescent colors are prohibited.
- (f) The color of signs shall not conflict with traffic signals.

10. Lettering:

- (a) In order for new signs to convey the atmosphere of the past that is desirable to attract visitors, authentic lettering styles are essential.
- (b) Lettering should relate to the architectural character of the building upon which it is displayed, and the overall historic atmosphere.
- (c) New Signs should have lettering and overall dimensions scaled in proportion to the location.
- (d) Lettering should occupy about 65% of the sign board or less.
- (e) Lettering styles generally not accepted are as follows: Generally those styles that have become popular after 1900: Cartoon, art deco, frontier, sloppy script (a sort of cartoon type), quick show card writer's style, and letters of generally uneven-type appearance.
- (f) Signs should avoid overusing the styles called "playbill"(which has heavy tops and bottoms) and "Barnum" or circus type letters, which are overly ornate. While both these styles were in use during the period, they were little used for business signs.

11. Window displays and signs of a temporary nature displayed in windows – such as "for sale" signs, are permitted without application, provided the following requirements are met:

- (a) Window displays should be in keeping with the historic atmosphere.
- (b) The use of vinyl or stick-on letters shall not be permitted.
- (c) The display of nationally distributed signs should be avoided.

- (d) No cartoon signs shall be displayed, even temporarily.
- (e) Paper “For Sale” posters shall not be left up for more than two (2) weeks.
- (f) Items, large posters, etc., should be displayed set back about six inches or more from the glass instead of fastened to the glass.
- (g) Open and closed signs are permitted.
- (h) Signs that note that the business is closed for the season are permitted.
- (i) Window signs shall not be displayed for more than two weeks.

12. Banner:

- (a) Banners across the street shall be permitted only upon approval of the Zoning Commission, and shall be permitted only for a civic purpose.
  - (1) Banners across the street must have an individual permit.
  - (2) The lowest point of the banner must not be below the legal limit for wires crossing the street (15’6” above the street).
  - (3) Banners shall be erected so as not to blow down.
  - (4) Banners shall not detract from the historic atmosphere.
  - (5) Banners shall be limited to cloth like materials such as canvas, nylon, reinforced type materials, etc., i.e, they may not be made of stiff or solid type material.
  - (6) Banners shall generally be allowed to remain up for one week or less; provided, however, that the Zoning Commission may determine an alternative time limit.
  - (7) Display of a banner shall not count against a business location’s total signs per business, as provided in Section 6.06.02(15).
- (b) Banners on the front of buildings shall be permitted only upon approval of the Zoning Commission, and shall be permitted only for a civic purpose.

- (1) Banners are intended to be temporary in nature. Banners shall generally be allowed to remain up for one week or less; provided, however, that the Zoning Commission may determine an alternative time limit.
- (2) Banners shall be erected in substantial enough manner that they will not blow down.
- (3) Banners shall be subject to the same height restrictions as permanent signs, as provided in this chapter.
- (4) A permit shall be required prior to the banner being displayed.
- (5) Colors and lettering styles on the banner should not detract from the historic atmosphere.
- (6) Display of a banner shall not count against a business location's total signs per business, as provided in Section 6.06.02(15).

### 13. Height Restrictions

The Zoning Commission shall review the height of any proposed sign. The height of the proposed sign shall be permitted and approved if the Zoning Commission determines that the height of the sign is appropriate for the size of the building or space in where it will be displayed, and if it does not detract from the historic and aesthetic significance of the Medora Historic Integrity District.

### 14. Size Limits of Projecting Signs

Projecting signs, projecting signs with a support, projecting signs supported by a pole, may have 25 square feet of area on each side, and shall not exceed 2'6" height, except for minor small ornamental projections, which may be one foot or less above the top of the sign.

### 15. Total Signs Per Business

Each business location may be allowed up to three (3) total signs, which may be permanent in their construction and design. Temporary special event boards, temporary sandwich boards, and banners shall be excluded from a business location's total sign count.

### 16. Maintenance, Repair, Vesting. The City of Medora shall be held harmless as a result of any action taken under this chapter.

- (a) All signs and supports shall be constructed and maintained in a safe manner. In the event that a sign is determined to be unsafe, the City may give notice to the property owner to repair or remove the sign. If the sign remains, in an unsafe condition for more than ten days after notice of such condition is given the City may at its option put the same sign into a safe condition or remove the structure at the expense of the property owner or permittee.
- (b) These regulations shall be deemed retroactive as well as prospective in operation.

### **6.0603 Permitted Signs**

#### **1. Existing Signs:**

- (a) Existing signs erected before this ordinance was enacted or under due and proper permit, shall be allowed to remain in place until May 26, 2008. In the event that such signs are to be replaced, repaired or repainted prior to May 26, 2008, a zoning permit must be obtained.
- (b) If lettering or colors, etc., on a sign are changed in any way, even if the sign board itself is not moved, it shall be considered to be a new sign, and a permit shall be required.
- (c) Signs which are removed in the winter and put up again in the spring, or on an annual basis with no changes in lettering, colors, etc., need not obtain a new permit every year; provided, however, that a permit must be obtained prior to the first time they are re-erected after the passage of this ordinance.

#### **2. Applied Signs**

- (a) Applied signs may be affixed on the front of a building in any location so long as it does not obscure the architectural features (windows, arches, etc.).
- (b) Applied signs are limited in area to 10% of any wall area not to exceed 32 square feet.

#### **3. Projecting Signs (signs at 90° angle to building, projecting over the sidewalk, supported by wires, chain, etc., outer end).**

- (a) Projecting signs shall be kept back 18 inches from a vertical line raised from the outer edge of the curb.
- (b) Projecting signs shall be limited to 25 square feet per side, and should not exceed 30 inches in height, exclusive of small ornamental projections.
- (c) Projecting signs with a support (signs projecting over the sidewalk affixed to the building on the inside end and supported by a pole or post to the outer end) are prohibited.

#### 4. No Trespassing Signs and No Hunting Signs

No Hunting or Trespassing signs shall be permitted, provided that they are of standard size and standard materials.

#### 5. Plaques and Historical Signs (Signs of a purely historical nature, not advertising goods and/or services)

- (a) Cast metal historical plaques are exempt from the regulations of this ordinance.
- (b) Small framed or painted plaques of a purely historic information, not to exceed three square feet in size, will be allowed to be attached flat against the front of a building at approximately eye level, there being allowed no more than one such plaque per historic business or building.

#### 6. A Shadow Box affixed to a building shall not be larger than nine (9) square feet and shall be covered.

#### 7. Window Signs

- (a) Shall not occupy more than 25% of the glass area.
- (b) Should be limited to signs of a permanent nature, and very simple, such as the name of the business or the name of the proprietor.
- (c) Historically documented signs are to be encouraged.
- (d) Gold leaf is to be encouraged for use on window signs.
- (e) No cartoon window signs are allowed, even temporarily.

- (f) Signs painted on window shades shall meet criteria of window signs, but may occupy up to 50% of the area of the shade.

## 8. Flags

- (a) All businesses are allowed to fly flags provided such flags are consistent with the other sections of the zoning ordinance. Such flags shall not exceed 4' x 6' in size.
- (b) Flags shall be flown in such a manner that pedestrian traffic is not blocked by the flag. The lowest point of a hanging flag shall be at least 6' 6" above the sidewalk, roadway, or other public way.
- (c) Flags shall be substantially fastened or affixed to their staff so as to remain securely attached. Flags shall not be allowed to work loose in their holders and dip downward.
- (d) Bunting and other similar decorations shall be used in the same manner as can be historically documented and shall be used respectfully. Only red, white and blue bunting shall be used. Bunting shall not be allowed to come loose and fall in the street or block the sidewalk in any manner. No strings or triangular flags, shiny tinsel, etc., shall be permitted.

## 9. Street Furniture-Objects of Interest Along the Street. All outside furniture must satisfy the following requirements by May 26, 2008.

- (a) Benches and other objects along the street, such as barrels, small pieces of historic machinery, horse troughs, etc., are called Street Furniture.
- (b) Street furniture shall not be painted in bright colors. Color restrictions shall be the same as for signs. Rust color or black is considered an appropriate color for metal or iron objects.
- (c) Historic objects shall not be defaced for commercial purposes.
- (d) Authentic wooden sculptures are allowed. Other types of wooden or cast metal representations of people, animals or objects, quite realistic, may be permitted.

## 10. Vending machines. Outside vending machines are a particular visual problem in the City. All machines shall be camouflaged to reflect the aesthetics of the surrounding area and all lighting shall be held to a bare minimum. The placement and necessity for the machine shall be taken into consideration to

determine if a vending machine shall be allowed.

11. Temporary Special Event Boards. Temporary special event boards that provide information such as the time, date, and location of a temporary scheduled event are allowed. No zoning application shall be required for a temporary special event board, provided that the temporary special event board is not displayed for more than one week. Displays of temporary special event boards greater than one week shall require approval of a zoning application.
12. Sandwich Boards. Sandwich boards shall be allowed, provided that they are consistent with other regulations in this governing signs with respect to colors, lettering, and general condition. Sandwich boards shall be no more than 42" x 42" in size. Sandwich boards shall require a permit from the Zoning Board prior to the first display. No zoning approval is required for subsequent displays of a sandwich board provided that the sandwich board does not change in its design. All sandwich boards shall be displayed in such a manner as to not create an obstruction to pedestrian traffic or otherwise create a hazard. Each business location may display up to one sandwich board at a time.
13. Free Standing Signs. Free standing signs of a minimalist nature are permitted provided they are approved by the Zoning Commission. In approving a free standing sign, the Zoning Commission will consider, among other things, the following:
  - a. Size of the building
  - b. Size of the lot
  - c. Distance signs from the building
  - d. The pace and type of traffic
  - e. The height of the sign
  - f. The color of the sign

#### **6.0604 General Conditions of Signs**

1. No new exterior signs or signs inside windows shall be permitted except as authorized by this ordinance.
2. All new signs shall require a permit from the Zoning Commission.
3. Reproduction of historically documented original signs to be encouraged.
4. Existing Signs:

- (a) Existing signs erected before zoning was implemented or under due and proper permit, are hereby “grandfathered” and allowed to remain in place until this designation expires on January 1, 2008. When “grandfathered” signs are in need of replacement, repairing, or repainting a zoning permit must be obtained.
- (b) If lettering or colors, etc., on a sign is changed in any way, even if the sign board itself is not moved, it shall be considered to be a new sign and a permit required.
- (c) Signs which are removed in the winter and put up again in the spring, or an annual basis with no changes in lettering, color, etc., need not obtain a new permit every year, but must obtain a permit the first time they are re-erected after the passage of this ordinance.

5. Electric Signs:

- (a) No electric signs shall be permitted except incandescent bulbs, flood lights or spot lights may be used to illuminate ordinary painted signs by directing the light upon them.
- (b) No flashing lights, blinking lights, or “moving” Lights shall be allowed.
- (c) No internally illuminated signs, exterior neon signs, or exterior fluorescent lights shall be allowed for signing.
- (d) Strings of light bulbs (such as are sometimes used on car lots) are prohibited for commercial purposes, as are signs or building features outlined in lights; however, this provision shall not be construed to prohibit the use of yard decoration, holiday lighting, or “Christmas Lights” to outline windows or architectural features.
- (e) Spot, flood, or other lights shall be so arranged so as to not shine into the eye of motorists, cause confusion with traffic signals, or shine or reflect into private residences.
- (f) No neon signs shall be allowed except small “Open” signs, not exceeding 34” x 14”. Such neon “open” signs shall be permitted Labor Day through Memorial Day each year. No information shall be allowed on neon “open” signs except language indicating whether the business is opened or closed. A permit shall be required prior to display of neon “open” signs.

**6.0605**

**Miscellaneous**

Enforcement.

1. Enforcement provisions are provided in this section shall be in addition to those enforcement options and subject to the penalties described in Article 9.
2. All signs shall be brought into compliance with the provisions of this ordinance by May 26, 2008.
3. All signs, including signs previously approved by the City of Medora, shall require a new permit in order to assure compliance with this ordinance.
  - (a) All sign owners shall submit a sign permit application, to the City of Medora on or before February 1, 2008. The owner shall include a photograph of the sign in its current condition. A separate application is required for each sign.
  - (b) The Zoning Commission shall at upon each sign permit application.
4. Signs in violation of this ordinance:
  - (a) The City Council, upon recommendation of the Zoning Commission and vote of the council, shall cause a notice to be served upon the owner of the signs not meeting the criteria of this ordinance.
  - (b) If, after this presentation, it still appears that the said sign is in violation, the owner shall remove it within 30 days, or apply for a permit to revise it so as to be within the provisions of the ordinance.
  - (c) If said sign is not removed within this time, upon expiration of thirty days a second notice shall be sent to the owner by certified mail with return receipt requested. After 10 days from the mailing of such notice the City shall declare the sign a public nuisance and the penalty will be enforced as prescribed in Article 9 of this ordinance.

**ARTICLE 7- MOBILE HOMES, TRAVEL TRAILER AND RECREATIONAL VEHICLES**

**6.0701 Mobile Homes**

Mobile Homes existing within the limits of the city of Medora or its extra territorial jurisdiction as of the date of enactment of this ordinance shall be allowed without permit; provided, however, that any such mobile home shall not be allowed to be replaced.

A Mobile Home shall mean any factory-built home, not entirely built and constructed on site, produced prior to 1976.

**6.0702 Trailers and Recreational Vehicles**

It shall be unlawful, within the limits of the city of Medora, for any person to park any travel trailer, semi truck or semi trailer, or other recreational vehicle on any street, alley, or highway or on any tract of land owned by any person within the City of Medora except as follows:

- a. Emergency or temporary stopping or parking is permitted on any street, alley, or highway for not longer than one (1) six-hour period subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations of this Code.
- b. The parking of one unoccupied trailer or recreational vehicle in an accessory private garage building or in a rear yard in any district is permitted providing no living quarters shall be maintained or any business practiced in the trailer while the trailer is so parked.
- c. In a designated campground designed and licensed by the State of North Dakota as an area for travel trailers and recreational vehicles.
- d. Travel trailers and recreational vehicles of registered guests of motels in the city provided the travel trailer or RV is parked on motel property and is unoccupied.

**6.0703 Visitor's Permit**

The owner of any trailer or other recreational vehicle in the City of Medora may obtain a visitor's permit to park the trailer or other recreational vehicle on a lot for a period of not to exceed two weeks. A visitor's permit may be granted upon written request to the City Auditor accompanied by written consent of the adjoining property owners. The trailer or other recreational vehicle shall not be parked less than 10 feet from either side lot line and eight (8) from any building or

within the set-back area of the front of the lot. Visitor's permits may be renewed by application to the City Auditor for one (1) additional two-week period upon the same terms and conditions.

## **ARTICLE 8-ANNEXATION AND PLATTING**

### **6.0801 Annexed Property-Excluded Property**

In the annexation or exclusion of property to or from the City of Medora, as the case may be, the provisions of Chapter 40-51.2 NDCC and any subsequent amendments thereto shall be followed.

### **6.0802 Platting of Subdivisions**

In the laying out of additions or subdivisions of land to the City of Medora the provisions of Chapter 40-50.1 NDCC and any subsequent amendments thereto shall be followed and complied with. Any platting of additions or subdivisions of land to the City of Medora shall be in accordance with such procedure as established in this chapter.

The Zoning Commission shall act as the Planning Commission for the City of Medora for approval of plats within the City and its extraterritorial jurisdiction. The Zoning Commission shall follow the procedures set forth in NDCC Chapter 40-48 for the approval of plats.

## **ARTICLE 9-VIOLATIONS/PENALTIES**

### **6.0901 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 article shall constitute the maintenance of a public nuisance, and any appropriate action or proceeding may be instituted by the City through any administrative official, department, board, or bureau charged with the enforcement of this article:

1. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;

2. To restrain, correct, or abate such violation;
3. To prevent the occupancy of the building, structure of land; or
4. To prevent any illegal act, conduct, business, or use in or about such premises.

A violation of any provision of this article or a violation of or refusal or failure to comply with any regulation, order, requirement, decision or determination made under the authority conferred by this article shall be punishable as provided by law.

Source: Section 40-47-12 NDCC

**6.0902 Penalty**

Any person, firm, corporation or limited liability company violating any of the provisions of this chapter and the same shall be proven by a preponderance of the evidence, shall be punished by a fine of not more than One Hundred Dollars (\$100.00) for each and every day such violation of this ordinance shall continue. Each and every day shall constitute and be considered a separate offense.

**ARTICLE 10 DEVELOPMENT AGREEMENTS.**

**6.1001 Purpose**

The City Council desires to require various development standards and establish directives to the City Engineer and Zoning Commission to implement such provisions and compliance with Chapter Six—Zoning, Medora City Code, through the requirement of Development Agreements early in the planning and zoning process.

**6.1002 Development Standards and Provisions**

Various development standards and provisions shall be mandated for all new developments within the territorial limits of the City of Medora including areas encompassed by its extraterritorial jurisdiction. The City Engineer and Zoning Commission are directed to implement such development standards and provisions and compliance with Chapter Six—

Zoning, Medora City Code, through the requirement of Development Agreements early in the planning and zoning process;

For the purposes of this section, "development standards and provisions" includes, but is not limited to:

(a) Project elements such as permitted uses, residential densities, and nonresidential densities and intensities or building sizes;

(b) The amount and payment of any and all infrastructure costs, including infrastructure needs and costs of the community as may be impacted by the development, impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;

(c) Mitigation measures, development conditions, and other requirements under State law and Medora City Code;

(d) Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, street design, material and construction specifications, and other development features;

(e) Affordable housing;

(f) sewer and water needs and capacity;

(g) Parks and open space preservation;

(h) Phasing;

(i) Review procedures and standards for implementing decisions;

(j) A build-out or vesting period for applicable standards; and

(k) Any other appropriate development requirement or procedure.

(l) The execution of a development agreement is a proper exercise of county and city police power and contract authority. A development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

## **6.1003**

## **Sample Agreement**

### **CITY OF MEDORA** **DEVELOPMENT AGREEMENT**

THIS AGREEMENT is made and entered into on the date stated herein, by and between the City of Medora, a North Dakota municipal corporation, and the Developer, as stated herein.

Developer Name and Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Legal Description of Property: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In mutual consideration of the covenants and agreements of the City and the Developer herein, the parties hereby agree as follows:

**1. Owner of Property.** The Developer hereby warrants and represents that it is the record owner of the real property identified herein. The Developer agrees to provide a current Attorney Opinion of Ownership or Current Title Insurance Policy to the City of Medora prior to submittal of the Final Plat.

**2. Approval of Plat.** The Developer shall prepare Sketch, Preliminary, and a Final Subdivision Plat. The Final Plat shall be in conformance with State and City requirements, as may be amended from time to time, for the real property described herein. All plat documents shall be in conformance with the City checklists.

Included in the sketch plat submission shall be a engineering report describing the proposed infrastructure improvements (proposed street width, type of curb, pavement section, etc.), storm water management (volume of runoff increase and method of disposition), sewer and water connection points, intended street lighting standards and feed connection point. Include in the report the utility companies that are intended to provide service and the utility contact information and date of contact. Include in the report the expected schedule of installation for all infrastructure and utilities.

The Developer shall not sell, transfer, or grant any land located within the proposed subdivision before the proposed plat has been approved by the Planning and Zoning Commission and the City Council of the City of Medora, unless the Plat is withdrawn with the consent of the City of Medora. Any person selling or transferring land within the proposed subdivision prior to approval of the subdivision plat shall forfeit and pay to the City an amount of \$500 for each lot or parcel transferred or sold. In the event that the Developer does sell or transfer lots or parcels in the proposed subdivision prior to the approval of the subdivision plat, the City shall be entitled to enjoin such sale or transfer, in addition to the civil penalty provided for herein.

The Developer shall coordinate with the utility companies to provide easements necessary for the proposed lots. Easements shall be also provided to accommodate drainage and access.

The City may request changes to the plat to protect the interests of the City, to provide for orderly growth of the City, and to protect the rights of adjacent property owners. The City reserves the right to reject approval of Final Plats that are not in the best interest of the City or the Public. All proposed lot arrangements shall be in conformance with the proposed zoning and all City and State requirements.

**3. Zoning Requirements.** The Developer shall apply for zoning as desired by Developer and upon approval of the zoning classification by the City of Medora shall thereafter conform to all zoning requirements enacted by the City of Medora, as may be amended from time to time.

**4. Infrastructure Improvements.** The Developer hereby agrees that it will finance, design, and construct all required infrastructure improvements for the subdivision and as necessary outside of the subdivision for proper connection. All infrastructure improvements within the proposed subdivision shall conform to standards as determined by the City. Such required infrastructure shall include, but shall not be limited to grading, subgrade improvements, aggregate base, asphalt or concrete pavements, curb/gutter, concrete driveway aprons, water main and service lines, storm sewer, sanitary sewer and service lines, and street lighting. The City reserves the right to request changes to the proposed improvements.

Grading of the lots shall be such that the main finish floor of the homes is at least 2' above the current 100 year floodplain and that all buildings are sufficiently elevated to avoid flooding and are compliant with all local, state and federal flood management standards.

**5. Assurance of Infrastructure Completion.** The Developer hereby agrees that no improvements or infrastructure shall be constructed within any land located within the proposed subdivision unless and until a plan for developing and constructing such improvements and/or infrastructure is approved by the City.

Prior to the start of construction and prior to final signature by the City of the Three Way Agreement, the Developer shall post with the City a valid Certificate of Deposit or Escrow letter in an amount of 105% of the project cost to assure the completion of the required infrastructure. In the case of any shortages to any and all project costs, it will be the responsibility of the Developer to supply funds to cover any shortages. Upon completion of the work all remaining funds and any accrued interest will be returned to the developer.

It shall be the responsibility of the Developer for all platting, engineering, surveying, construction, daily construction observation, legal and administrative costs associated with the project. It shall be the responsibility of the City to pay for the professional engineering services for review of the proposed plat, review of the proposed engineering drawings/specifications and occasional trip to the site for project observation.

**6. Design and Construction**

The Developer shall submit to the City drawings and specifications for the infrastructure improvements showing the particular lots or parcels to be serviced. The drawings and

specifications shall be prepared and stamped by a ND licensed Professional Engineer. The proposed design shall provide for a durable and functional street section, and underground utilities, that will not be a burden to the City to maintain. The City reserves the right to request changes to the design to provide for durable low maintenance public improvements. The Developer shall be responsible for the bid process and may select their contractor of preference to perform the work. The developer shall be responsible for all survey staking and project observation costs. Prior to acceptance of the installed improvements by the City, the Developer's Professional Engineer shall issue a certificate of completion. Said certificate, signed by the professional engineer, shall certify that the improvements have been installed per the drawings and specifications.

Review of plats, engineering documents, and any observations by the City or its consultants shall be for the benefit of the City only. The Developer shall be fully responsible for any errors or omissions in the plats and design documents. The City and its consultants will not be responsible for instructing or supervising the contractor or the work. The developer is fully responsible for assuring that the contractor is in compliance with contract documents. The City or its consultants shall not be responsible for keeping record of quantities or costs including change orders and therefore does not guarantee their accuracy.

The Developer, Contractor, and the City shall enter into a Three Way Agreement to perform the work within the City right of way. Work performed outside of the City right of way will be by private agreement between the Contractor and the Developer. The Developer shall thoroughly examine the City Three Way Agreement and familiarize itself with the requirements contained within.

When the improvements are constructed under the Three Way Agreement, the Certificate of Completion is received and subject to final review by the City, the City will accept the improvements. The City will then assume operation and maintenance of the improvements subject to warranties and unknown deficiencies. The Developer shall be responsible for all costs associated with warranty issues or unknown defects that may arise beyond the warranty period.

**7. City Requirements.** The Developer shall otherwise conform to all City requirements enacted by the City of Medora, as may be amended from time to time. The provision of remedies in this Agreement shall be in addition to those otherwise provided by law to the City for other violations of the city subdivision of land code.

**8. Binding Effect.** This Agreement shall be binding on, and shall inure to the benefit of, the parties hereto and their respective heirs, administrators, representatives, successors, and assigns. This Agreement shall further be recorded against the real property described herein, and shall be intended to run with the land against any transferees, assigns, or devisees of the Developer.

**9. Governing Law.** This Agreement shall be governed by North Dakota law and any question arising hereunder shall be construed or determined according to such law.

**10. Entire Agreement.** This Agreement contains the entire agreement between and among the parties hereto, and supersedes all prior and contemporaneous discussions, negotiations, understandings, and agreements, whether oral or written, express or implied, between or among them relating to the subject matter of this Agreement. This Agreement may not be amended orally, nor shall any purported oral amendment (even if accompanied by partial or complete performance in accordance therewith) be of any legal force or effect or constitute an amendment of this Agreement, but rather this Agreement may be amended only by an agreement in writing signed by the parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

CITY OF MEDORA

By: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

DEVELOPER

By: \_\_\_\_\_  
\_\_\_\_\_, its \_\_\_\_\_

***Repeal of Ordinances in Conflict.*** All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

***Severability.*** In the event any section of this Ordinance is held invalid by a court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter shall continue in full force and effect.

***Effective Date.*** This Ordinance shall be in full force and effect from and after final passage.

