

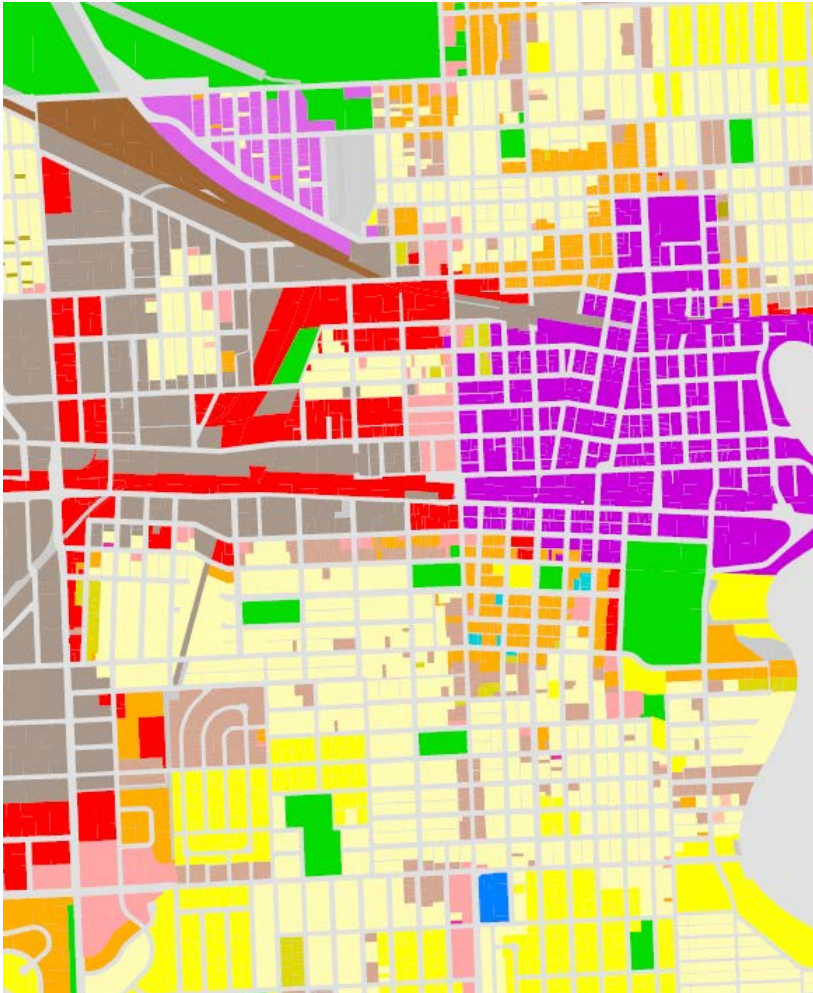
# Review of Zoning

# Zoning Regulations

- Zoning authority is a “police power” granted to the City by the State.
- Land Development Code
  - Purpose: To implement the City’s Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo.
  - Two components:
    - Ordinance Text
    - Zoning Map

# Zoning Regulations

## Zoning Map



## Base Zoning Districts

- AG, Agricultural
- SR-o – SR-5, Single-Dwelling Residential
- MR-1 – MR-3, Multi-Dwelling Residential
- MHP, Mobile Home Park
- UMU, University Mixed-Use
- NO, Neighborhood Office
- NC, Neighborhood Commercial
- GO, General Office
- LC, Limited Commercial
- DMU, Downtown Mixed-Use
- GC, General Commercial
- LI, Limited Industrial
- GI, General Industrial
- P/I, Public & Institutional

## Overlay Zoning Districts

- C-O, Conditional Overlay
- H-O, Historic Overlay
- HIA-O, Hector International Airport Overlay
- PUD, Planned Unit Development

# Zoning Regulations

What do zoning districts regulate?

- Use Standards
  - By-right vs. conditional
  - primary vs. accessory
- Dimensional Standards
  - Density, lot size, setbacks, height, coverage, etc.
- General Development Standards
  - Parking, Landscaping
- Situational standards
  - Residential Protection Standards
  - Use-Specific Standards

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# Zoning Regulations

## Use Standards

- By-Right Use
  - Uses that are allowed without the need for City approval.
- Conditional Use
  - Uses that may not be appropriate throughout a zoning district, but that may be appropriate in certain areas or under certain conditions if approved by the City.
- Primary Use
  - The main purpose for which land or a building/structure thereon is designed, arranged, intended, or maintained.
- Accessory Use
  - A use or structure that:
    - Is clearly incidental to and customarily found in connection with a principal structure or use;
    - Is subordinate in area, extent and purpose to the principal building or use;
    - Contributes to the comfort, convenience or necessity of occupants of the principal use; and
    - Is located on the same lot and in the same zoning district as the principal use.

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# Zoning Regulations

## Dimensional Standards

- **Density** -- Number of dwelling units for each acre of land.
- **Lot Area** -- The horizontal land area within lot lines.
- **Lot Width** -- The distance between side lot lines, as measured at the front setback.
- **Setbacks** -- The unobstructed, unoccupied open area between the furthestmost projection of a structure and the property line of the lot on which the structure is located.
- **Building Coverage** -- The area of a lot covered by buildings (principal & accessory) or roofed areas.
- **Open Space** -- Outdoor, unenclosed areas designed and accessible for outdoor living, recreation, pedestrian access or landscaping (not including areas intended for vehicular travel).
- **Height** -- The vertical distance between the average finished grade at the base of the building along the side of the building being measured and:
  - 1) the average height level between the eaves and ridge line of a gable, hip or gambrel roof;
  - 2) the highest point of a mansard roof; or
  - 3) the highest point of the coping of a flat roof.





# Dimensional Standards

[illegible]

Dimensional Standard	Zoning District										UMU
	AG	SR-0	SR-1	SR-2	SR-3	SR-4	SR-5 <sup>[9]</sup>	MR-1	MR-2	MR-3	
<b>Maximum/Minimum Density</b> (UPA - Units per Acre)	0.1 Max.	1.0 Max.	2.9 Max.	5.4 Max.	8.7 Max.	12.1 Max.	14.5 Max.	16.0 Max.	20.0 Max.	24.0 <sup>[1]</sup> Max.	18.0 Min.
<b>Minimum Lot Size</b>											
Area (Sq. Ft.)	10 Ac	1 Ac <sup>[2]</sup>	15,000	8,000	5,000	3,600	3,000	5,000	5,000	5,000	2,420
Width (Ft.)	200	120	80	60	50 <sup>[3]</sup>	34 <sup>[3]</sup>	25	50 <sup>[3]</sup>	50 <sup>[3]</sup>	50 <sup>[3]</sup>	50 <sup>[3]</sup>
<b>Minimum Setbacks (Ft.)</b>											
Front	50 <sup>[4]</sup>	50	35	30	20	15 <sup>[5]</sup>	15 <sup>[5]</sup>	25	25	25	10
Interior Side <sup>[6]</sup>	25	25	15%/15	10%/10	10%/10	4	4	15%/25	15%/25	10	5
Street Side	25 <sup>[7]</sup>	25	17.5	15	12.5	10	10	12.5	12.5	12.5	10
Rear	50	50	25	25	15	15	15	20	20	20	15
<b>Max. Building Coverage</b> (Pct. of Lot)	NA	25	25	30	35	45	50	35 <sup>[8]</sup>	35 <sup>[8]</sup>	35 <sup>[8]</sup>	75
<b>Minimum Open Space</b> (Pct. of Lot)	NA	NA	NA	NA	NA	NA	NA	35	35	35	NA
<b>Maximum Height (Ft.)</b>	35	35	35	35	35	35	35	35	45	60	60

# Zoning Regulations

## Dimensional Standards - Setbacks

- Exceptions
  - Landscaping, fences, driveways, etc. exempt from setback requirements
  - Eaves, decks, steps, etc. allowed to encroach into setback areas
  - Accessory structures may be as close as 3 feet from rear and interior-side lot lines when located within the rear yard area.
- Setback Averaging

“In a block where the average front setback of existing buildings within 100 feet of the subject lot is not more than 6 feet greater or 6 feet less than the front setback requirement for the zoning district in which such block is located, the front setback for the proposed building shall be set at such average depth. Where such average depth is more than 6 feet greater or 6 feet less than the front setback required for such district, this average setback requirement may be waived by the Board of Adjustment and a different requirement established by the Board of Adjustment. When a block is zoned in different zoning districts, the front setback requirements of the district that requires the greater front setback shall apply along its entire length. Setback averaging is not required in a UMU, University Mixed-Use District.”

# Zoning Regulations

## Dimensional Standards - Setbacks

- Example:
  - Zoning District: SR-2 (Single-Dwelling Residential)
  - Lot Width: 76 feet
  - Required Setbacks:
    - Front: 30 feet
    - Rear: 25 feet
    - Interior-side: 10 feet or 10% of the lot width (whichever is less)



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# Zoning Regulations

## General Development Standards

- Parking
  - Based on use (two spaces required for single-family dwelling units)
  - For SR zoning districts:
    - A maximum of one off-street parking space shall be permitted on a front yard residential driveway. Front yard residential driveways shall not exceed 24 feet in width or the width of the driveway approach, whichever is greater, provided that in no event shall any such driveway allow less than 8 feet of non-paved surface to exist alongside one or both sides of such driveway. All other off-street parking spaces must be located in a covered garage or in side or rear yards.
    - All off-street parking spaces in front or side yard areas shall have an all-weather surface. Rear yard parking spaces may be surfaced with gravel.
- Landscaping
  - Based on zoning district
  - SR generally exempt except for street trees

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# Zoning Regulations

## Situational Standards

- Residential Protection Standards
  - Required only for non-residential development adjacent to residential zoning or multi-family development adjacent to SR or MHP zoning.
  - Additional requirements for:
    - Increased setbacks/building height
    - Landscape buffers and screening of dumpsters & outdoor storage
    - Restrictions on hours of operation, lighting, and odor
- Use-Specific Standards
  - Dependent upon use and zoning district
  - Specific requirements for specified uses



# Checks and Balances of Zoning Regulation

- **City Commission** (Planning Commission & Historic Preservation Commission)
  - Power to legislate zoning ordinances
- **Board of Adjustment** (Planning Commission & Historic Preservation Commission)
  - Quasi-judicial power to adjudicate zoning questions/issues
- **Planning Department Staff**
  - Power to administer zoning ordinances

# Variances

- Board of Adjustment
  - 5 Members
    - 4 member quorum
    - 4 affirmative votes required for any approval
  - Meet on the 4<sup>th</sup> Tuesday of each month
  - Powers & Duties:
    - Variances
    - Appeals of Administrative Decisions

# Variances

- What is a variance?
  - A variance is an authorization to allow a landowner to do something that is generally not allowed by the Land Development Code.
    - Deviate from dimensional standards
      - (e.g. building within the required setback area)
    - Off-street parking standards
  - Variances are designed to act as a relief valve in situations where enforcement of the zoning code would result in an unnecessary hardship due to unique conditions relating to the property.

# Variances

- Characteristics of a Variance
  - Variances are designed to **accommodate unique physical characteristics of the land**, not problems created by the landowner.
  - Variances are **not intended as a means to put the property to a more profitable use**.
  - Variances **should not be granted if the need for the variance was caused by the actions of the landowner**, or the landowner's predecessors in title.
  - Variances should have **no adverse effect** on the public or on neighboring property.

# Variances

## LDC Variance Approval Criteria

§20-0914.E.1 of the LDC states that, “A variance may be granted by the Board of Adjustment upon an affirmative finding that all of the following conditions exist.”

- a) The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner’s intentional action;
- b) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
- c) The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;
- d) The variance desired will not adversely affect the public health, safety or general welfare; and
- e) The variance is the minimum variance that will overcome the hardship.

# Variances

- Process for approval of a Variance
  - Application
    - Applicant submits application before the 1<sup>st</sup> of the month
  - Public Notification
    - Written notice mailed to properties within 300 feet
    - Notice in the Fargo Forum
  - Staff Review
    - Staff reviews application and prepares report and meeting packet
  - Board of Adjustment meeting
    - Public Hearing
    - Board of Adjustment decision
  - Appeals
    - Appeals of Board of Adjustment decisions made to City Commission