

CITY OF ROSS
INTRODUCTORY PROVISIONS
2011

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3.1.1 TITLE

This Title shall be known and officially cited as the “Development Code of the City of Ross, North Dakota.” It is referred to in this Title as the “Ross Development Code,” the “Development Code,” or “this Code.”

3.1.2 EFFECTIVE DATE

This Development Code shall take effect and be in force from and after July 1, 2011.

3.1.3 AUTHORITY

The City of Ross, North Dakota, exercising the authority granted by N.D.C.C. § 40-47-01.1, hereby extends application of its zoning ordinances and regulations to any quarter quarter section of unincorporated territory, the majority of which is located within 1 mile [1.61 km] of the corporate limits of the City of Ross, North Dakota.

The Ross Development Code is enacted pursuant to the powers granted and limitations imposed by laws of the State of North Dakota, including the statutory authority granted in Municipal Laws of North Dakota, and all other relevant laws of the State of North Dakota. Whenever any provision of this Code refers to or cites a section of the Municipal Laws of North Dakota and that section is later amended or superseded, this Code shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

3.1.4 APPLICABILITY AND JURISDICTION

A. APPLIED TO ALL LANDS

1. This Code applies to all land, buildings, structures, and uses thereof located within the territorial and extra-territorial zoning authority of the City of Ross, unless a variance, adjustment, or exemption is provided by or pursuant to the terms of this Code.
2. To the extent allowed by law, the provisions of this Code shall apply to all land, buildings, structures, and uses owned, leased, or otherwise controlled by any district, county, state, or federal government agencies in the City of Ross. Where the provisions of this Code do not legally control such land, buildings, structures, and uses, such agencies are encouraged to meet the provisions of this Code.

B. COMPLIANCE REQUIRED

No land shall be used or divided, and no structure shall be constructed, occupied, enlarged, altered, or moved until:

1. All applicable development review and approval processes have been followed;
2. All applicable approvals have been obtained; and
3. All required permits or authorizations to proceed have been issued.

C. EMERGENCY POWERS

The City Council may authorize deviations from any provision of this Development Code during a local emergency. Such deviations shall be authorized by resolution of the City Council without a requirement for prior notice or public hearing.

3.1.5 PURPOSE AND INTENT

The general purposes of the Ross Development Code are to protect the public health, safety, and general welfare, and to implement the policies and objectives in the Ross Comprehensive Plan and the City's other adopted plans. More specifically, the regulations are intended to:

- A. Regulate and control the division of land to encourage convenient, compatible, and efficient relationships among land uses;
- B. Prevent excessive population densities and overcrowding of land or buildings;
- C. Protect life and property in areas subject to floods, landslides, and other natural disasters;
- D. Preserve the character and quality of residential neighborhoods, including rural neighborhoods;
- E. Encourage innovation in residential development and redevelopment that meets the demand for housing with a greater variety in the type and design of dwellings;
- F. Preserve and protect uses of land that provide employment opportunities to city residents;
- G. Encourage timely, orderly, and efficient arrangement of public facilities and services;
- H. Ensure that service demands of new development will not exceed the capacities of existing streets, utilities, or other public facilities and services;
- I. Promote the economic stability of existing land uses that are consistent with the Comprehensive Plan and protect them from intrusions by incompatible land uses;
- J. Consider the immediate and long-range financial impact of the application of particular land to particular kinds of development, and the relative suitability of the land for development;
- K. Enhance the quality of development through superior building and site design;
- L. Ensure the provision of adequate open space for light, air, and fire safety;
- M. Better integrate development and redevelopment with the environment to conserve open space and protect natural and scenic resources;
- N. Encourage development of a sustainable and accessible system of recreational facilities, parks, trails, and open space that meets year-round neighborhood and community-wide recreational needs;
- O. Reduce the consumption of energy by encouraging the use of products and materials that maximize energy efficiency;
- P. Encourage the improved design and effective use of the built environment through the use of CPTED (Crime Prevention through Environmental Design) principles for the purpose of reducing the fear and incidence of crime, and to improve the quality of life;
- Q. Require the provision of adequate off-street parking and loading facilities, and promote a safe and effective traffic circulation system;
- R. Develop a timely, orderly, and efficient arrangement of transportation and public facilities and services, including public access and sidewalks for pedestrians, and facilities and services for bicycles to have access and rights-of-way to navigate the city.

3.1.6 CONFLICTING PROVISIONS

A. CONFLICT WITH STATE OR FEDERAL REGULATIONS

If the provisions of this Code are inconsistent with those of the state or federal government, the more restrictive provision shall control, to the extent permitted by law.

B. CONFLICT WITH OTHER CITY REGULATIONS

If the provisions of this Code are inconsistent with one another or if they conflict with provisions found in other adopted ordinances, resolutions, or regulations of the City, the more restrictive provision shall control.

C. CONFLICT WITH PRIVATE AGREEMENTS

It is not the intent of this Code to interfere with, abrogate, or annul any easement, covenant, deed restriction, or other agreement between private parties. If the provisions of this Code impose a greater restriction than imposed by a private agreement, the provisions of this Code will control. If the provisions of a private agreement impose a greater restriction than this Code, the provisions of the private agreement will control. The City shall not be responsible for monitoring or enforcing private agreements.

3.1.7 RELATIONSHIP TO THE COMPREHENSIVE PLAN

A. PURPOSE AND ROLE

The Comprehensive Plan serves as the basic policy guide for the administration of this Code. The goals, vision, recommendations, and policies of the Comprehensive Plan may be amended from time to time to meet the changing requirements of the City.

B. EFFECT

All development and redevelopment within the City shall be in accordance with the applicable provisions of the Comprehensive Plan, as adopted or amended by the City Council. Amendments to the text of this Code or rezoning of land may be required in order to ensure compliance with this section.

3.1.8 OFFICIAL ZONING MAP

A. ZONING MAP BOUNDARIES

The boundaries of the zoning districts established in this Code are shown on a map or series of maps designated the “zoning map,” which is adopted and made a part of this Development Code as fully as if it were set out here in detail. In case of any dispute regarding the zoning classification of land subject to the Ross Development Code, the original maps maintained by the City Auditor shall control. Questions or disputes regarding zoning designations shown on the zoning map shall be taken to the City Planning & Zoning Board.

B. INTERPRETATION OF MAP BOUNDARIES

The City Auditor shall be responsible for interpretations of the zoning map in accordance with the following standards:

1. Boundaries delineated by the centerline of streets highways, or alleys shall follow such centerlines.
2. Boundaries delineated by lot lines shall follow such lot lines.
3. Boundaries delineated by railroad lines shall be midway between the main tracks or the centerline of a single track.
4. Boundaries dividing a lot or transecting un-subdivided land shall be determined using the scale appearing on the zoning map unless the boundary location is indicated by dimensions shown on the map.
5. Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.
6. Where the actual location of existing physical or natural features varies from those shown on the zoning map, or in other circumstances not covered by this subsection, the City Auditor shall have the authority to interpret the district boundaries. Appeals of the City Auditor's decision shall be reviewed by the Ross Planning Commission.

3.1.9 TRANSITIONAL PROVISIONS

A. CONTINUITY OF PROVISIONS

The provisions of this Code, insofar as they are substantially the same as previously existing Code provisions relating to the same subject matter, shall be construed as restatements and continuations thereof and not new enactments. Any actions or proceedings commenced or permits issued pursuant to any previously existing ordinance shall not be affected by the enactment of this Code, but such actions, proceedings, and permits shall hereafter conform to this Code.

B. VIOLATIONS CONTINUE

Any violation of the previous Development Code will continue to be a violation under this Code and be subject to penalties and enforcement, unless the use, development, construction, or other activity complies with the provisions of this Code.

C. LEGAL NONCONFORMITIES UNDER PRIOR CODE

Any legal nonconformity under the previous Development Code will also be a legal nonconformity under this Code, as long as the situation that resulted in the nonconforming status under the previous Code continues to exist. If a nonconformity under the previous Development Code becomes conforming because of the adoption of this Code, then the situation will no longer be a nonconformity.

D. USES, LOTS, STRUCTURES, AND SITES RENDERED NONCONFORMING

1. When a an existing lot of record is used for a purpose that was a lawful use before the effective date of this Code and this Code no longer classifies such use as either a permitted use or conditional use in the zoning district in which it is located, such use shall be considered nonconforming. This Code allows those preexisting uses to continue but prohibits their expansion under the newly adopted Code.
2. Where any building, structure, lot of record, or development site that legally existed on the effective date of this Code does not meet all standards set forth in this Code, such building, structure, lot, or site shall be considered nonconforming. This Code allows those preexisting uses to continue but prohibits their expansion under the newly adopted Code.

E. APPROVED PROJECTS

1. Use permits, variances, or design approvals, and preliminary plat maps, any of which are valid on July 1, 2011, shall remain valid until their expiration date. Projects with valid approvals or permits may be carried out in accordance with the development standards in effect at the time of approval, provided that the permit or approval is valid and has not lapsed.
2. No provision of this Code shall require any change in the plans, construction, or designated use of any structure for which a building permit has been issued prior to July 1, 2011.
3. The City Auditor may renew or extend the time of a previous approval of an application that was administratively approved if the required findings or criteria for approval remain valid. Any extension granted shall not exceed one year in length, and no more than one extension may be granted. Preliminary plat maps may only be extended in accordance with these provisions. The City Auditor shall provide written notice of any approved extension and shall be responsible for posting notice of the approved extension in City Hall. The notice shall remain in place for at least ten days.
4. Any re-application for an expired project approval shall meet the standards in effect at the time of reapplication.

F. MAP INTERPRETATIONS

Questions or disputes regarding zoning designations on the City of Ross zoning map resulting from adoption of the new Development Code shall be submitted to the City Auditor for written interpretation.

G. TRANSITION TO NEW ZONING DISTRICTS

Upon the effective date of this Code, land that is zoned with a zoning district classification from the previous Development Code shall be re-classified or translated to one of the zoning district classifications set forth in this Code.

3.1.10 COMPLIANCE WITH DISTRICT STANDARDS

No land within the City shall be developed except in accordance with the zoning district regulations and all other applicable regulations of this Code, including but not limited to:

1. *Use Regulations;*
2. *Development and Design Standards;*
3. *Subdivision Design and Improvements;* and
4. Any applicable provisions from the Ross Municipal Code.

3.1.11 SEVERABILITY

It is expressly declared that this Code and each section, subsection, sentence, and phrase would have been adopted regardless of whether one or more other portions of the Code is declared invalid or unconstitutional.

- A. If any section, subsection, sentence, or phrase of this Code is held to be invalid or unconstitutional by a court of competent jurisdiction for any reason, the remaining portions of this Code shall not be affected.
- B. If any court of competent jurisdiction invalidates the application of any provision of this Code, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment.
- C. If any court of competent jurisdiction judges invalid any condition attached to the approval of an application for development, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.