OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 5179

AN ORDINANCE AMENDING SECTIONS
20-0212, 20-0216, 20-0302, 20-0402, 20-0403, 20-0502, 20-0612, 20-0701,
20-0704, 20-0705, 20-0901, 20-0907, AND 20-0914
OF ARTICLES 20-02 THRU 20-07 AND
20-09 OF CHAPTER 20 OF
THE FARGO MUNICIPAL CODE RELATING TO
THE LAND DEVELOPMENT CODE OF THE CITY OF FARGO

WHEREAS, the electorate of the City of Fargo has adopted a home rule charter in accordance with Chapter 40-50.1 of the North Dakota Century Code; and

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City shall have the right to implement home rule powers by ordinance; and

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supercede state laws in conflict therewith and shall be liberally construed for such purpose; and

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance;

NOW, THEREFORE,

Be it Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Amendment.

Subparagraph 20-0212.D.3.b. of Section 20-0212 of Article 20-02 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

* * *

b. Materials

(1) Required

All walls ~~visible from the street~~ that front a public street shall be finished with architectural materials such as brick, glass, stone, ceramic, stucco, precast

panels, exterior insulation finish systems (e.g. dryvit), or curtain walls. When the DMU development is detached/attached single family or small scale multi-dwelling in nature, typical residential structure exterior materials may be accepted (e.g. residential grade vinyl siding, composite brick, residential grade steel siding).

* * * *

Section 2. Amendment.

Subsection 20-0216D. of Section 20-0216 of Article 20-02 of Chapter 20 (Land Development Code) is hereby amended to re-number the subsection as follows:

* * *

~~D~~E. Alternative Design Standards.

* * * *

Section 3. Amendment.

Subsection 20-0302E. of Section 20-0302 of Article 20-03 of Chapter 20 (Land Development Code) is hereby amended to add a paragraph to read as follows:

* * *

10. Open Space

The minimum Open Space standards of the underlying zoning district may be waived and/or altered by the Board of City Commissioners during the PUD review and approval process.

Section 4. Amendment.

Subparagraph 20-0402.N.3.e. of Section 20-0402 of Article 20-04 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

e. ~~As provided by Sec. 20-0401, TSSs in DMU and P/I zoning districts and TSSs which exceed the maximum building height for the applicable zoning district, but are not more than 125 feet in height in AG, SR-0-SR4, MR-1-MR-3, UMU, NC, NO, LC and GO zoning districts are Conditional Uses and are therefore subject to the Conditional Use review process of Sec. 20-0909~~

As provided by Sec. 20-0401, in AG, SR through SR-5, MR-1 through

MR-3, UMU, MHP, NO, NC, GO, LC, DMU, and P/I zoning districts, TSSs which exceed the maximum height for TSSs permitted by-right for the applicable zoning district, but are not more than 125 feet in height are Conditional Uses and are therefore subject to the Conditional Use review process of Sec. 20-0909:

* * * *

Section 5. Amendment.

Paragraph 20-0403B.3 of Section 20-0403 of Article 20-04 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

3. Rear Setback

a. In all zoning districts, ~~other than~~ except the UMU zoning district, accessory structures, when located within the rear yard area, ~~shall be~~ are exempt from the rear and interior-side setback requirements~~, provided that they~~ of the underlying zoning district and shall be set back at least 3 feet from rear and interior-side lot lines. This 3-foot setback shall not apply to fences or walls.

b. In a UMU district, accessory structures, other than fences or walls shall meet the rear setback requirements of Sec. 20-0501. As in districts other than UMU zoning districts, said setback requirements do not apply to fences or walls.

Section 6. Amendment.

Paragraph 20-0403C.2. of Section 20-0403Article 20-04 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

2. Minor Home Occupations - Defined

A Minor Home Occupation is one in which residents use up to 25 percent of the floor area of their home as a place of work, but in which no employees come to the site. Minor Home Occupations allow up to four customers per day, with a maximum of 12 customers per week, only between the hours of 7:00 a.m. and 9:00 p.m. No more than one customer is permitted on the site at any given time. Examples include, but are not limited to, artists, crafts people, writers, professional consultants personal care and grooming services, and employees of off-site businesses who work from their home. In addition, tutors, such as piano or other music teachers, who provide lessons to no more than 60 students per week and do not have non-resident employees

coming to the site, shall be deemed minor home occupations. In addition, dog grooming services that would qualify as a Minor Home Occupation as a result of percentage of floor area of the home, customer activity and hours of operation may be allowed after it has been reviewed and approved in accordance with Conditional Use Review procedures of Sec. 20-0909. Unless otherwise expressly stated, any Conditional Use Permit for such dog grooming service granted pursuant to Section 20-0909 shall automatically terminate upon sale or transfer of the property. For purposes of calculating floor area of a minor or major home occupation in which the home occupation occupies a garage that is attached or detached from the primary home structure, the sum of the home and garage square footage shall be included in the total square footage from which the 25 percent maximum floor area is computed.

Section 7. Amendment.

Section 20-0502 of Article 20-05 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

§20-0502 - Nonresidential District Standards

The dimensional standards of Table 20-0502 apply to all development in nonresidential zoning districts.

Table 20-0502

Dimensional Standard						
	GO	**LC**	**DMU**	**GC**	**LI**	**GI**
Minimum Lot Size						

Minimum Setbacks (Ft.)						
Front	20	10	0	20	20	50
Interior Side	5	5	0	5 [3 1]	10 [1]	20 [1]
Street Side	20	10	0	20	20	50
Rear	15	15	0	15	20	20
Watercourse Setback	[3]	[3]	[3]	[3]	[3]	[3]
Maximum Building Coverage (Pct. of Lot)	65	55	100	85	85	85
Maximum Height (Ft.)	60	~~35~~/60 [4 2]	None	None	None	None

[1] No setback required when adjacent to DMU

[2] The 35-foot height restriction applies whenever residential protection standards apply, or when the Limited Commercial parcel is within 300 feet of SR zoning. Otherwise, the height limit shall be 60 feet in Limited Commercial zoning districts.

[3] Watercourse setbacks for all residential, nonresidential and overlay/special purpose zoning districts are as set forth in Section 20-0508.

Section 8. Amendment.

Section 20-0612 of Article 20-06 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

* * *

§20-0612 Waivers

The Planning Commission shall be authorized to recommend and the Board of City Commissioners shall be authorized to approve Modifications or Waivers of the Subdivision

Design and Improvement Standards of this article in accordance with the Subdivision Waiver provisions of Sec. ~~20-0907-E~~20-0907.

Section 9. Amendment.

Subsection 20-0701G. of Section 20-0701 of Article 20-07 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

G. Parking and Loading Area Design

Off-street parking and loading areas must be designed and constructed to accepted construction standards in the industry. Unless otherwise expressly stated in this Land Development Code, including paragraph D.2. of this section pertaining to gravel surfaces in rear yards within single-family (SR) zoning districts, or approved by the City, all ~~required~~ off-street parking spaces shall have an all-weather surface. In LI or GI zoning districts only, rear yard vehicular circulation area, not including parking spaces, may be crushed concrete or similar material as approved by the Zoning Administrator

Section 10. Amendment.

Subparagraph 20-0701.I.2.b. of Section 20-0701 of Article 20-07 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

2. Design and Layout

Required stacking spaces are subject to the following design and layout standards.

a. Size
Stacking spaces must be a minimum of 8 feet by 20 feet in size.

b. Location
Stacking spaces may not impede on- or off-site traffic movements or movements into or out of required off-street parking spaces.

Section 11. Amendment.

Paragraph 20-0704A.2 of Section 20-0704 of Article 20-07 of Chapter 20 (Land Development Code) is hereby amended to add a footnote reference to the existing footnote 1 of said section so that it reads as follows:

§20-0704A.2 Residential Protection Standards

* * *

2. Applicability [1]
   The standards of this section apply to:

   a. All multi-dwelling development when such development occurs on a site located within 150 feet of any SR or MHP zoning districts; and

   b. All nonresidential development when such development occurs on a site located within 150 feet of any SR, MR or MHP zoning districts.

[1] For purposes of the residential protection buffers, property zoned AG-Agricultural that is identified as being future residentially-zoned property on any growth plan approved under §20-0905 shall be deemed to be SR-, MR-, or MHP-zoned property.

Section 12. Amendment.

Subsection 20-0705C.1 of Section 20-0705 of Article 20-07 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

C. Open Space Landscaping

1. Applicability

The Open Space Landscaping standards of this subsection shall ~~app~~ply to all any development that contains three or more attached dwelling units ~~in~~ SR-3, or SR-4, or SR-5 zoning dist~~ricts developments containing three or more~~ attached ~~dwelling un~~its a~~nd to i~~n all any development in M~~R-1~~ or and more intensive zoning districts.

Section 13. Amendment.

Subsection 20-0901.K. of Section 20-0901 of Article 20-09 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

K. Compliance with North Dakota Century Code

The development review procedures of this Article are intended to implement the procedural requirements of the North Dakota Century Code. In the event of conflict between the procedures of this article and those required by the Century Code, the North

Dakota Century Code shall control.

Procedure	Sec. No.	Review (R), Decision-Making (DM) and Appeal (A) Bodies				
		Staff	HPC	BOA	PC	BCC
LDC Text Amendments	20-0904	R			R	**DM**
Area Plan	20-0905	R			R	**DM**
Zoning Map Amendments	~~20~~-0201 20-0906	R	R [1]		R	**DM**
Subdivision	20-0907					
Minor					R	**DM**
Major		R			R	**DM**
Planned Unit Developments	20-0908					
Master Land Use Plan		R			R	**DM**
PUD Rezoning		R			R	**DM**
Final Development Plan		R			**DM**	A
Conditional Use Permits	20-0909	R			**DM**	A
Site Plan Review	20-0910	**DM**			A	A [2]
Institutional Master Plan	20-0911	R			**DM**	A

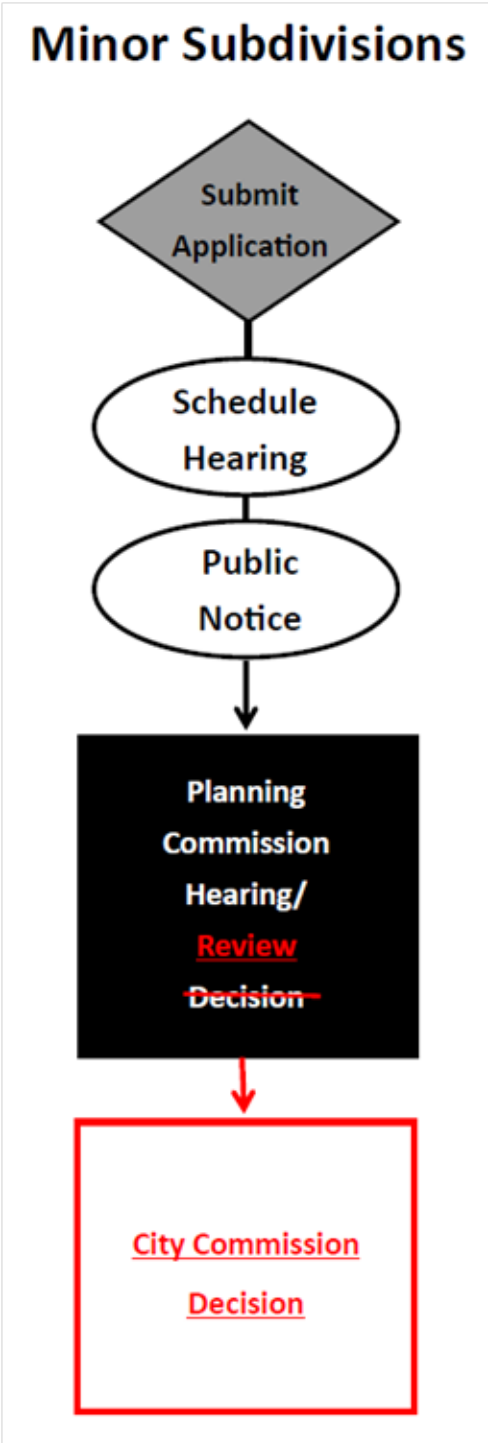
Certificates of Appropriateness	20-0912	R & DM [3]	**DM & A [3]**			A [2]
Building Permits/Certificates of Occupancy	20-0913	**DM**		A		
Variances	20-0914			**DM**		A
Written Interpretations	20-0915	**DM**		A		
Appeals of Administrative Decisions	20-0916			**DM**		A

n BOA = Board of Adjustment n PC = Planning Commission
n BCC = Board of City Commissioners n HPC = Historic Preservation Commission

[1] HPC is involved only on H-O District application, pursuant to §20-0305.
[2] Appeals are not required to go to Planning Commission and Board of City Commissioners. Board of City Commissioners acts as appellate body only if the Planning Commission's decision is appealed.
[3] Review, Decision Making and Appeals process is different depending on nature of request. See §20-0912.

Section 14. Amendment.

Subsection 20-0907B. of Section 20-0907 of Article 20-09 of Chapter 20 (Land Development Code) is hereby amended to revise the subdivision process illustrative graphic so that it reads as follows:


Minor Subdivisions
Submit Application
Schedule Hearing
Public Notice
Planning Commission Hearing/ Review ~~Decision~~
City Commission Decision

ORDINANCE NO. 5179

* * * *

Section 15. Amendment.

Subsection 20-1202(24) of Section 20-1202 of Article 20-12 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

Home Occupation: A business, profession, occupation or trade conducted for gain, conducted within a dwelling unit, including an attached or detached garage accessory to the dwelling unit, for gain or support by a resident of the dwelling unit.

Section 16. Amendment.

Paragraph 20-0914.I.3. of Section 20-0914 of Article 20-09 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

3. Action on Appeal

The Board of City Commissioners shall consider the appealed decision as a new matter in a public hearing and, at the close of the public hearing, act to approve or deny the original application for a Variance. The procedure and required notice shall be the same as required of the original action before the Board of Adjustment. A favorable vote of ¾ of all the members of the Board of City Commissioners shall be required to approve any variance request.

Section 17. Penalty.

A person who willfully violates this ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed $1000; the court to have power to suspend said sentence and to revoke the suspension thereof.

ORDINANCE NO. 5179

Section 18. Effective Date.

This ordinance shall be in full force and effect from and after its passage, approval and publication.

/s/
Timothy J. Mahoney, Mayor

(Seal)
Attest:

/s/
Steven Sprague, City Auditor

First Reading:	11-5-18
Second Reading:	11-19-18
Final Reading:	11-19-18
Publication:	12-3-18