

**ORDINANCES OF THE  
CITY OF FRONTIER, NORTH DAKOTA  
(as of January 1, 2018)**

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**Article 2000-1**  
**ZONING ORDINANCE OF THE CITY OF FRONTIER, NORTH DAKOTA<sup>1</sup>**

SECTION I

INTRODUCTION

A. AUTHORITY

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

B. TITLE

This ordinance shall be known as the "Zoning Ordinance of the City of Frontier".

C. PURPOSE AND INTENT

The purpose of this ordinance is to promote the public health, safety, and general welfare; to secure the orderly development of the city; and to protect the resources of the city.

D. SEVERABILITY

If any part of this ordinance is adjudged to be invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

E. EFFECTIVE DATE

This ordinance shall be effective after a public hearing and adoption by the City Council of the City of Frontier.

F. DEFINITIONS

For the purposes of this ordinance, certain words or phrases used herein are defined as follows:

1. Accessory Building - a subordinate building the use of which is customarily incidental to the main building or the main use of the premises such as garages, sheds, etc. The maximum square footage of an accessory building is 800 square feet. The maximum height of an accessory building is twenty-one (21') feet. **Exterior**

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<sup>1</sup> *First Reading: September 11, 2000; Second Reading and Final Passage: October 9, 2000.*

**Building Material:** The same or similar quality and scale exterior building materials shall be used in the accessory buildings as in the principal building. All accessory buildings shall also be compatible with the principal building on the lot. “Compatible” means that the exterior appearance of the accessory building is not at variance with the principal building from an aesthetic and architectural standpoint as to cause a difference to a degree to cause incongruity or a nuisance.<sup>2</sup>

2. Board of Adjustment - the body authorized to hear appeals on the enforcement of this ordinance and its provisions and to grant variances. For the purposes of this ordinance, the Board of Adjustment shall be the City Council.
3. Building - any structure intended for shelter and use of persons, animals or property.
4. Certificate of Compliance - a certificate stating compliance has been made with the regulations of the zoning district which is issued after completion of construction.
5. Conditional Use - an exception from permitted uses within certain zoning districts provided such exceptions are stated in the zoning ordinance and will not be detrimental to the district and will substantially serve the public welfare.
6. Dwelling, Single Family - a detached residential unit designed for and occupied by one family.
7. Dwelling, Multiple Family - a residential unit designed for occupancy by two or more families.
8. Home Occupation - a gainful occupation conducted by members of the family [and possible assistance of no more than one unrelated individual working up to forty (40) hours per week] within the residence or accessory buildings provided that no goods or services are sold other than those produced on the premises.
9. Lot - a tract of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area and to provide such open space and yards as required by this ordinance.
10. Non-Conforming Use - any building or tract of land lawfully occupied by a use at the time of the passage of this ordinance or amendments thereto, which does not conform to the provisions of this ordinance or its amendments.
11. Principal Building - the main structure on a lot or parcel of land which houses the principal use of the premises.

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<sup>2</sup> *First Reading: June 12, 2017; Second Reading and Final Passage: July 10, 2017.*

12. Setback - the distance within a property which is required between any structure or use and the adjacent right-of-way or property line of an adjoining lot.
13. Structure - anything built, constructed or erected which requires permanent location on the ground.
14. Variance - a relaxation of the terms of the zoning ordinance to provide relief for a property owner when an undue hardship or some peculiar difficulty is imposed by this zoning ordinance. Variance is limited to height, bulk, density and yard requirements which are peculiar to a property and are not the result of the action of the property owner, where a literal enforcement of the ordinance would result in unnecessary and undue hardship.
15. Yard - a space on the same lot with the principal building or structure, open, unoccupied and unobstructed by building or structures from the ground upward.

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*Amendment Source: Ordinance #2003-1 amends Section I(F)(1) to include the following language:  
“The maximum height of an accessory building is twenty-one (21) feet.”*

*Amendment Source: Ordinance #2008-1 amends Section I(F)(8) to include the following language:  
“[and possible assistance of no more than one unrelated individual working up to forty (40) hours per week]”.*

## SECTION II

### GENERAL PROVISIONS

#### A. JURISDICTION

The jurisdiction of this ordinance shall include all lands within the boundaries of the City of Frontier.

#### B. AMENDMENTS

The City Council may from time to time on their own motion, or on petition or on recommendation of the Zoning Commission, amend, supplement or repeal provisions of this ordinance after a public hearing.

#### C. NON-CONFORMING USES

The lawful use of a building, structure or premises existing at the time of the adoption of this ordinance may be continued although such use does not conform with the provisions of this ordinance. The total structural repairs or alterations to such a non-conforming use or structure shall not, during its life, exceed fifty (50) percent of the assessed value of the building or structure unless permanently changed to a conforming use. If a non-conforming use is discontinued for a period of twelve (12) months, any future use of the building, structure or premises shall conform to this ordinance.

#### D. LAND SUITABILITY

1. No land shall be used for seasonal or permanent uses if it has inadequate drainage, soil limitations, or other conditions likely to be harmful to the health and safety of the users of the area or harmful to the City of Frontier.
2. Where uncertainty exists as to the suitability of the land for on-site sewage disposal, the City Council may request a study of the soil conditions or other pertinent conditions.

#### E. CONDITIONALLY PERMITTED USES

1. No application for a conditional use shall be granted by the City Council unless all the following conditions are present:
  - a. that the uses, values and enjoyment of the other property in the area shall in no foreseeable manner, be impaired or diminished by the conditional use;
  - b. that the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare;
  - c. that the conditional use will not impede the normal and orderly development



- d. and improvement of surrounding property for uses permitted in the district; that adequate utilities, access roads, drainage and other necessary site improvements have been made or are being provided;
- e. that the conditional use shall conform to all applicable regulations of the district in which it is located.

F. VARIANCE PROCEDURES

1. The City Council shall hear and decide on variance from the terms of this ordinance as will not be contrary to the public interest and where the literal enforcement of this ordinance would result in practical difficulty or unnecessary hardship to a property owner. The City Council shall base its decision for variance from this ordinance upon the evidence presented to it and shall determine that all the following conditions are present:
  - a. that the purpose of the variance is not based on a desire for economic or material gain;
  - b. that the alleged difficulty or hardship is caused by this ordinance and not created by any person presently having an interest in the property;
  - c. that the variance will not be detrimental to the public welfare or injurious to other properties in the vicinity;
  - d. that the variance shall not be contrary to the intent and purpose of this ordinance.

## SECTION III

### ZONING DISTRICTS

For the purposes of this ordinance, all lands under the jurisdiction of the City of Frontier is divided into the following zoning districts:

- O Open Space and Conservation
- R Residential District
- C Commercial District
- I Industrial District

#### A. ZONING MAP

The location and boundaries of the zoning districts are hereby established as shown on the map entitled "Zoning District Map", on file in the office of the Zoning Administrator. The Zoning Administrator shall regularly update the Zoning District Map to show any changes in the zoning district boundary lines resulting from amendments to the ordinance.

##### 1. LOCATION OF DISTRICT BOUNDARIES

The following rules shall apply with respect to the boundaries of the zoning districts as shown on the Zoning District Map:

- a. where the zoning district boundary lines are indicated as following highway, road, or railroad right-of-way, such boundary lines shall be construed to be the center line of said right-of-way unless clearly shown to be contrary.
- b. where uncertainty exists as to the exact location of the zoning district boundary line, the City Council shall determine the location of such boundary lines.

#### B. OPEN SPACE AND CONSERVATION DISTRICT

The predominant use of land within this district is agriculture and undeveloped land. It is the purpose of this zoning district to maintain these uses, to limit development upon flood prone land, and to provide for future expansion of the city.

##### 1. Permitted Uses:

- a. Grain and crop farming, nurseries, greenhouses and roadside stands for the sale of products which are grown on the premises.
- b. Golf courses, but not including miniature golf courses.
- c. Public parks, facilities and playgrounds.

2. Conditional Uses:
  - a. Dairying, livestock and poultry raising.
  - b. Single family dwellings.
  - c. Airports.
  - d. Churches and related facilities.
  - e. Cemeteries and crematoriums.
  - f. Home occupations.
  - g. Radio and television towers and accessory buildings.
  - h. Temporary structures incidental to construction work but not extending beyond the period of such work.
  - I. Public schools.
  - j. Utility lines and public service facilities.
3. Area and Density Requirements:
  - a. Where public sewer is available, the minimum lot buildable area shall be 7,000 square feet with a minimum width of 50 feet.
  - b. Where public sewer is not available, the minimum buildable lot area shall be 40,000 square feet with a minimum width of 150 feet.
4. Building Height/Size Limits:
  - a. For residential uses, the maximum height of structures shall be two and one-half (2½) stories or 35 feet.
  - b. The total square footage of all buildings may not exceed 800 square feet.
5. Setback Requirements:
  - a. The minimum setback from road and highway rights-of-way shall be 75 feet.
  - b. There shall be a minimum side and rear yard of 10 feet with no building line closer than 20 feet to another structure on an adjacent lot.

C. R RESIDENTIAL DISTRICT

The predominant use of land within this district is housing. It is the purpose of this district to maintain this use and to provide for further utilization of land within this district for additional housing expansion. The minimum area for designation as a Residential District shall be 1 acre.

1. Permitted Uses:
  - a. Single family dwellings and accessory structures.
  - b. Churches, schools and related facilities.
  - c. Public parks and playgrounds.

2. Conditional Uses:
  - a. Public buildings and facilities but not including storage or repair shops.
  - b. Home occupations.
3. Area and Density Requirements:
  - a. The minimum buildable lot area shall be 40,000 square feet with a minimum lot width of 100 feet.
4. Building Height/Size Limits:
  - a. Structures hereafter erected or altered shall not exceed two and one-half (2½) stories or 35 feet in height.
  - b. The maximum square footage of all buildings may not exceed 4,200 square feet or 10% of the lot area, whichever is less.
5. Setback Requirements:
  - a. The minimum setback from road or street right-of-way shall be 75 feet or in line with existing structures on that block.
  - b. The minimum side and rear yard shall be 10 feet with no building line closer than 20 feet to another structure on an adjacent lot.
6. Parking of trucks, trailers, and semi-trailers regulated. No truck, trailer, semi-trailer, or commercial vehicle shall be parked on any street, avenue, boulevard, or alley in any residential district of the City of Frontier for a period longer than one (1) hour; provided, however, that such vehicles loading or unloading cargo may be parked on the streets, avenues, boulevards or alleys long enough to complete their loading or unloading; and provided further, that such restrictions shall not apply to any truck in use on any repair, maintenance, or construction project in progress on any such street, avenue, boulevard or alley.

No truck, trailer, semi-trailer, or commercial vehicle shall be parked on any residential lot in the City of Frontier for a period longer than one (1) hour in any twenty-four (24) hour period, and never on two (2) consecutive days.

Except as otherwise allowed by permit issued by the Building Inspection/Zoning Administrator's office upon payment of a fee in the amount of \$25 per calendar day/night [or any portion thereof], nor shall any semi-truck trailer be disconnected from the tractor; nor shall any truck, trailer, semi-trailer, or other commercial vehicle be parked on any street, avenue, boulevard or alley in any other district of the City of Frontier between the hours of 10:00 p.m and 6:00 a.m. except upon issuance of the permit and payment of said identified fee.

“Commercial vehicle” as designated herein shall not include vehicles rated as

medium duty/Class 6 and below.

*Amendment Source: Ordinance #2011-2 creates subsection 6 to regulate parking in residential zones.*

D. C COMMERCIAL DISTRICT

It is the purpose of the Commercial District to provide for adequate space for the grouping of retail merchandising, light industry and service activities. The minimum area for designation as a Commercial District shall be 1 acre.

1. Permitted Uses:

- a. Commercial eating and drinking establishments.
- b. Hotels and motels.
- c. Retail services including grocery stores, drug stores, radio and television repair shops, automobile service stations, bakeries, cabinet shops, professional offices and clinics.
- d. Miniature golf courses and amusement places.
- e. Lumber yards.
- f. Sales and service of automobile and farm implements.

2. Conditional Uses:

- a. Warehouses.
- b. Outdoor theaters.
- c. Single family dwellings and accessory structures.
- d. Multi-family dwellings and accessory structures.
- e. Boarding and rooming houses.

3. Area and Density Requirements:

- a. For residential uses the minimum buildable lot area shall be 40,000 square feet with a minimum width of 100 feet.

4. Building Height/Size Limits:

- a. For residential uses, the maximum building height shall be two and one-half (2½) stories or 35 feet.
- b. The maximum square footage of all buildings may not exceed 12,000 square feet or 30% of the lot area, whichever is less.

5. Setback Requirements:
  - a. The minimum setback for residential uses shall be 75 feet from road or street right-of-way or in line with existing structures on that block.
  - b. For residential uses there shall be a minimum side and rear yard of 10 feet with no building line closer than 20 feet to another structure on an adjacent lot.
  - c. All commercial establishments shall provide for adequate off street parking facilities.

E. I INDUSTRIAL DISTRICT

It is the purpose of the Industrial District to provide for adequate space for the grouping of industrial uses which will minimize the potential for adverse effects upon the environment and the public health, safety and welfare. At the time of the adoption of these ordinances, no Industrial District exists in the City of Frontier, nor is an Industrial District contemplated due to the existing boundaries of the City of Frontier.

1. Permitted Uses:
  - a. Manufacturing establishments.
  - b. Mineral extraction including sand and gravel.
  - c. Grain elevators and feed mills.
  - d. Concrete and block plants.
  - e. Commercial activities.
  - f. Transportation lines and facilities.
  - g. Electrical transmission facilities and substations.
2. Conditionally Permitted Uses:
  - a. All permitted uses in other districts.
  - b. The City Council shall review all permits for future industrial development to insure adequate measures are provided for the welfare and safety of the public.

F. SUPPLEMENTARY STANDARDS APPLICABLE TO DESIGNATED DISTRICTS

The following Supplementary Standards apply to each identified District when appropriately referenced:

1. Signs in Open Space and Conservation Districts or Residential Districts [O and R]:

The following signs shall be permitted in Open Space and Conservation Districts [O] or Residential Districts [R]:

- a. Signs traditionally associated with the permitted uses.
  - b. Signs not exceeding one (1) square foot in area and bearing only property numbers, post office box numbers, and names of occupants of premises.
  - c. Signs as permitted for home occupations will consist of an additional wall sign not exceeding one (1) square foot in area.
  - d. Flags and insignias of any government or governmental agency except when displayed in connection with a commercial promotion.
  - e. An advertising sign in connection with a lawfully maintained non-conforming use or conditional use.
  - f. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
  - g. A sign with a display surface of less than thirty-two (32 s.f.) square feet advertising only the sale, rental or lease of the building or premises is acceptable. After the sale or lease, the sign must be removed within thirty (30) days.
  - h. Temporary signs connected with political elections.
2. Signs in Commercial Districts or Industrial Districts [C and I]:
- a. A building permit must be obtained prior to installation of any commercial signs.
  - b. All commercial signs erected or placed in Frontier, Cass County, North Dakota, located adjacent to the State of North Dakota's highway or interstate right-of-ways shall be located on property zoned C or I, and shall obtain approval from the North Dakota State Highway Department prior to permit consideration from Frontier, Cass County, North Dakota.
  - c. The foundation base and posts of all signs must be on private property. All signs, other than wall signs, must be single or double metal pole construction that are appropriately anchored to properly constructed concrete footings [at least four and one-half feet {4.5'} deep and below the frost line] capable of withstanding significant horizontal winds. The sign faces may consist of metal, tempered glass, or approved plastic as designed by qualified professional sign company or professional contractor licensed to do business in North Dakota.
  - d. No part of any sign or projection may protrude over the public right-of-way

or from the roof of any structure.

- e. No sign may exceed thirty-two (32) feet in height, and the maximum sign width is, at the option of permit applicant, either: (1) sixty (60%) percent of the constructed height [example: 32' sign has a maximum width of 19.2' {32' X .60 = 19.2'; **but not more than 600 square feet** {19.2' X 32' = 614.40 square feet}], OR (2) forty (40'), **but not more than 600 square feet** {40' X 15' = 600 square feet; 35' X 17.5' = 612.5 square feet; 30' X 20' = 600 square feet}.<sup>3</sup>
- f. Front setback requirement: All signs must be located at least twenty (20) feet from the road or street right-of-way.
- g. Side setback requirement: All signs must be located at least ten (10) feet from any property line for an adjacent lot owned by another property owner.
- h. All wall signs installed on the outside of any commercial or industrial building shall be securely fastened, and may not protrude above the height of the building. The sign faces may consist of wood, metal, tempered glass, or approved plastic as designed by qualified professional sign company or professional contractor licensed to do business in North Dakota. If constructed of wood, it must be constructed of wood comparable in quality, or better, to that of the wall surface, and be thereafter maintained.
- i. All sources of artificial light other than street lights shall be fixed, directed or designed so as not to measurably increase the amount of light to any abutting residential lot. All lighted signs must be constructed of non-combustible materials. The enclosed shell of electric signs shall be watertight, except that service holes shall be fitted with covers so as to provide access to any compartment. Electrical equipment used in connection with display signs shall be installed in accordance with all local ordinances regulating electrical installations.
- j. One (1) portable temporary sign promoting commercial activities will be only be permitted on the property owner's commercial or industrial property for a maximum period of one hundred eighty (180) days in any calendar year without the need for any permit. No portable temporary signs are allowed on residential properties, nor on the commercial or industrial property of another. The maximum display surface of any portable temporary sign is sixty (60 s.f.) square feet, and it cannot be in excess of eight (8') feet in height.

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<sup>3</sup> Amended by Ordinance # 2014-1; First Reading on December 8, 2014; Second and Final Reading on January 12, 2015.



- k. A sign with a display surface of less than thirty-two (32 s.f.) square feet advertising only the construction, development, sale, rental or lease of the building or premises is acceptable. After the construction, development, sale or lease of the premises, the sign must be removed within thirty (30) days.

*Amendment Source: Ordinance #2011-1 creates subsection F to regulate signage.*

- l. In addition to the existing standards, digital signs or billboards, with or without electronic message centers, are subject to the following conditions:<sup>4</sup>
  - (1) **Hold Time:** Signs shall display a static message which message may not change or be changed for a period of at least seven (7) seconds.
  - (2) **Message Transitions:** The transition from one such static message to the next shall occur instantaneously without the use of animation, flashing or frame effects.
  - (3) **Sign Brightness:** Digital signs or billboards shall come equipped with automatic dimming technology that automatically adjusts the display's brightness based on ambient light conditions.
  - (4) **Electronic Message Centers:** All signs with electronic message centers shall come equipped with automatic dimming technology which automatically adjusts the sign's electronic message's brightness in direct correlation with ambient light conditions. No electronic message center shall exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle (Lux) meter at a preset distance depending on sign area. Measuring distance shall be calculated with the following formula: The square root of the product of the sign area and one-hundred. Example using a 12 square foot sign: Measurement Distance =  $\sqrt{(12 \text{ Sq. Ft.} \times 100)}$  = 34.6.
  - (5) **Law Enforcement Exception:** If the electronic sign is made part of the "Amber Alert" network to alert the public to a child abduction, or any similar electronic messaging network having the prior written approval of the Cass County Sheriff [with documentation of such law enforcement approval filed in advance with the Frontier City Auditor], the ordinance's limitations on "hold times", "message transitions" and "sign brightness" are suspended during the period of public emergency, but not longer than forty-eight (48) hours, so as to

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<sup>4</sup> Amended by Ordinance # 2014-2; First Reading on December 8, 2014; Second and Final Reading on January 12, 2015.

allow for a reasonable “streaming message” publicizing the emergency as identified by law enforcement officials. This authority for suspension of the limitations may not be utilized for any commercial advertisement, to include advertising the sign owner’s participation in the Amber Alert network, or any other authorized network recognized by the Cass County Sheriff.

## SECTION IV

### ADMINISTRATION AND ENFORCEMENT

The administration and enforcement of this ordinance is hereby vested in the City Council of Frontier, North Dakota, the Zoning Commission, and the Zoning Administrator.

#### A. CITY COUNCIL

All amendments to the text of the Zoning Ordinance and the Zoning District Map, all conditional use permits, and variances shall be approved or disapproved by the City Council following a public hearing and with consideration given to the recommendations of the Zoning Commission.

#### B. ZONING COMMISSION

The Zoning Commission shall consist of at least three members to be appointed by the City Council. One additional member may be appointed by the County Commission of Cass County should the City of Frontier ever elect to assert extraterritorial zoning under § 40-47-01.1 of the North Dakota Century Code. Members appointed by the City Council shall be residents of the city. Members appointed by the County must reside in the extraterritorial jurisdictional area of the city. The Zoning Commission shall hold public hearings on all applications for amending the Zoning District Map, the text of the zoning ordinance, or the granting of conditional use permits or variances and shall make recommendations to the City Council upon said matters. The Zoning Commission may recommend approval, denial, or modification of the application. Notice of all public hearings shall be published in accordance with the North Dakota Century Code.

#### C. APPEALS

1. Any person, firm, or corporation aggrieved by the actions or recommendations of the Zoning Commission or the Zoning Administrator, may appeal to the City Council. The Zoning Administrator shall transmit to the City Council all records on which the action or recommendation was based.

#### D. ZONING ADMINISTRATOR

1. The Zoning Administrator receives and files all permit applications, petitions for amendment to the zoning ordinance and the Zoning District Map, issues building permits, certificates of compliance, makes inspections, and maintains records.
2. The Zoning Administrator shall report all complaints to the Zoning Commission and/or the City Council.
3. The Zoning Administrator shall report all zoning violations to the City Council for

appropriate action.

E. BUILDING PERMIT

1. It shall be unlawful for any person to commence excavation for or construction of any building or structure, or structural changes in any existing building or structure without first obtaining a building permit. No building permit shall be issued for any building or structure which includes a mobile home as defined by N.D.C.C. § 57-55-01 potentially taxable under N.D.C.C. Chap. 57-55.
2. The fee for a building permit shall be set by the City Council.
3. Any permit issued pursuant to these provisions shall expire 12 months from the date of issuance.
4. All applications for building permits shall be accompanied by a statement of the proposed location of construction or alteration, its purpose, and it shall be accompanied by a plat, in duplicate, drawn to approximate scale, showing the actual dimensions of the recorded lot to be built upon, all existing buildings upon said lot, the size of the building to be erected, its dimensions, type of construction, and such information as may be necessary to provide for the enforcement of this ordinance. The Zoning Administrator shall consider the building permit application with the information attached thereto and may request more information relative thereto. If minimum requirements of this ordinance are met, a building permit will be issued. If requirements are not met, the Zoning Administrator may counsel the applicant on how to meet the minimum requirements or the applicant may request a hearing on petition for a variance, a conditional use, or amendment to the zoning ordinance or Zoning District Map.

F. CERTIFICATE OF COMPLIANCE

1. Following all new construction, alterations, or structural modifications to existing buildings, no building or structure shall be occupied until a "certificate of compliance" shall have been issued for determining the conformity of said building, alterations or structural modifications with the requirements of this ordinance and for the specifications upon which the building permit was issued.

G. VIOLATIONS AND PENALTIES

1. Whenever a violation of this ordinance occurs, any person may file a complaint in regard thereto. All such complaints shall be filed with the Zoning Administrator who shall investigate such violation and report to the City Council for appropriate action.
2. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or if any building, structure, or land is used in violation of

this ordinance, the City Council, in addition to other remedies provided by law, may institute any appropriate action or proceeding:

- a. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- b. To restrain, correct, or abate such violation;
- c. To prevent the occupancy of the building, structure, or land; or
- d. To prevent any illegal act, conduct, business, or use in or about such premises.

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*Amendment Source: Ordinance #2003-2 amends Section IV(E)(1) to include the following language: "No building permit shall be issued for any building or structure which includes a mobile home as defined by N.D.C.C. § 57-55-01 potentially taxable under N.D.C.C. Chap. 57-55."*

## Article 2004-1

### PLAN FOR SALE OF ALCOHOLIC BEVERAGES<sup>5</sup>

**2004(1)-1501. Definitions.**--In this article, unless the context or subject matter otherwise requires:

1. “Alcohol” shall mean neutral spirits distilled at or above 190 proof, whether or not such product is subsequently reduced, for nonindustrial use.
2. “Alcoholic beverages” shall mean any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume. All alcoholic beverages shall be deemed intoxicating.
3. “Beer” shall mean any malt beverage containing more than one-half of one percent of alcohol by volume.
4. “Business complex” shall mean any shopping center, shopping mall or similar physical facility where two or more retail businesses are located and conducted, whether or not such businesses are separately owned and operated.
5. “Council” shall mean the city council of the city of Frontier, Cass County, North Dakota, its governing body.
6. “Entertainment” shall mean all forms and types of entertaining patrons of licensed premises, whether such entertainment is provided by means of live performances or audio and/or video presentations, whether remote or prerecorded; provided, however, that “entertainment” shall not be deemed to include the use of any regularly broadcast television or radio programs, or coin-operated music machine.
7. “Licensee” shall mean any person to whom a license has been issued under the provisions of this article.
8. “Licensed premises” shall mean the bar area, dining rooms, meeting rooms, outdoor sidewalk areas, and all other areas or spaces where alcoholic beverages are regularly or occasionally sold, served or dispensed. In the alternative, any person applying for a license under the provisions of this article may describe, depict or otherwise identify in his application for a license various areas or spaces which shall constitute the licensed premises. The council, in its discretion, may require any applicant to so describe, depict or otherwise identify the licensed premises as a condition for the issuance of a license under the provisions of this article.

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<sup>5</sup> *City of Frontier Ordinance #2004-1 was approved the City Council of Frontier, Cass County, North Dakota, on the 10th day of May, 2004.*

9. “Lodge” or “club” shall mean any corporation or association organized for civic, fraternal, social or business purposes, or for the promotion of sports. Said lodge or club shall have at least 200 members at the time a license is applied for and shall have been in existence for at least 20 years prior to the time of application for the license; provided, that a local veteran’s organization which has not existed for 20 years but is a subsidiary of and chartered by a national organization which has had a bona fide existence for more than 20 years shall be deemed to be a “lodge” or “club” for purposes of this article.
10. “Microbrew pub” means a brewer that brews 25 or fewer barrels of beer per week and sells beer produced or manufactured on the premises for consumption on or off the premises, or serves beer produced or manufactured on the premises for purposes of sampling the beer.
11. “Off-sale” shall mean sale of alcoholic beverages in original packages solely for consumption off or away from the premises where sold. An off-sale license shall authorize the licensee to conduct such off-sale at the place designated in the license.
12. “On-sale” shall mean sale of alcoholic beverages for consumption only on the licensed premises. An on-sale license shall authorize the licensee to conduct such on-sales at the place designated in such license issued pursuant to the provisions of this article.
13. “Package” and “original package” shall mean any container or receptacle holding alcoholic beverages when such container or receptacle is corked or sealed by the manufacturer thereof and when the cork or seal has not been removed or broken prior to the sale of such package to the purchaser thereof.
14. “Person” shall include any natural person, association, partnership, corporation and any clerk, agent and abettor thereof.
15. “Public place” shall mean any building, property or other place that the general public can occupy as a matter of right or any building, property or place that is open to the general public by implied or express invitation, either for business purposes or otherwise.
16. “Recreational establishment” shall mean any pool hall, bowling alley, arcade or similar establishment having facilities or devices designed to provide for the amusement or leisure activities of its patrons.
17. “Sale” shall mean all methods or modes of furnishing alcoholic beverages, with or without consideration, whether by selling, dispensing, exchanging, bartering or other similar means of transfer. Such term shall include all transactions, whether for cash, credit or other considerations and shall include, but not be limited to, transactions where the consideration for the alcoholic beverage is included or combined with another transaction or where the consideration is called a “donation”, or used to purchase any ticket, token or other object redeemable for alcoholic beverages.
18. “Sparkling wine” shall mean wine made effervescent with carbon dioxide.

19. “Transfer” shall mean a change in location of the licensed premises; or any assignment, sale, exchange or other conveyance of any license issued pursuant to the provisions of this article. A transfer shall be deemed to have occurred upon the assignment, sale, exchange or other conveyance of 50% or more of the interest in a licensee partnership or stock in a licensee corporation, whether such assignment, sale, exchange or other conveyance occurred in one single transaction or multiple transactions.

20. “Wine” shall mean the alcoholic beverage obtained by fermentation of agricultural products containing natural or added sugar or such beverage fortified with brandy and containing not more than 24% alcohol by volume.

21. “Mandatory server training” shall mean server training that has been approved by the Frontier police department and/or the Safe Communities Coalition [created in Fargo, North Dakota] for managers and employees involved in selling alcoholic beverages at licensed liquor establishments, including restaurants. Persons successfully completing the approved class will receive a “server training certificate card” which will remain with that individual wherever employed. For all new managers and employees not having previously received server training, there shall be a grace period of 60 days in which to successfully complete the approved class. The sanctions for noncompliance (as well as other conditions) will be as specified in 2004(1)-1512(E) hereinafter.

22. “Stadium” shall mean a fixed physical structure, which may be fully-enclosed or open, in which spectators of events watch sports, concerts or other similar entertainment activities, with permanent seating and which has controlled access to and from its grounds. A stadium shall include the seating arena, private suites, concession stands, concourse area, playing field, and other permanent or fixed structures and areas related to spectator activities.

**2004(1)-1502. License required.**--No person shall engage in the business of the sale at retail of alcoholic beverages without first obtaining a license pursuant to the provisions of this article and posting the same in a conspicuous place on the licensed premises.

**2004(1)-1503. License--Qualifications.**--No license shall be issued to any applicant except as follows:

- A. If the applicant is an individual or partnership, such individual or partners must be legal and bona fide residents of the city of Frontier and State of North Dakota and be at least 21 years of age.
- B. If the applicant is a corporation, the manager of the licensed premises or another full-time employee of the licensee who is at least 21 years of age must be designated in the license application as an agent of the corporation. The manager of the licensed premises shall reside within either Cass County, North Dakota, or Clay County, Minnesota. All officers, directors and shareholders holding more than 5% of the outstanding stock of said corporation shall be at least 21 years of age.
- C. No license shall be issued to any person, partnership or corporation as the representative



or agent of another, and the license may be issued only to the owner or owners of the business being conducted at the location sought to be licensed.

D. If the applicant is a lodge or club, said applicant shall be deemed qualified for a license.

**2004(1)-1504. License--Application.**--Any person desiring to obtain the issuance or transfer of a license authorizing the sale at retail of alcoholic beverages shall make and file an application for such license with the council. Said application shall be made on a form approved by the council and made available through the office of the city auditor.

In addition to the information supplied on the application form, the council, in its discretion, may require such other information as it deems necessary in determining whether a license should be issued to the applicant.

The holder of an existing license issued pursuant to the provisions of this article who desires to renew said license for another license year, shall not be required to make and file a new application under the provisions of this section; provided, however, that said licensee shall be required to make annual payment as provided in § 2004(1)-1507(F) and to submit a written request for renewal and an affidavit indicating the current name and address of the licensee, and if said licensee is a corporation, the names and addresses of the resident manager, all corporate officers, and all shareholders holding more than 5% of the outstanding stock of the corporation, and such other information as the city may require. The affidavit shall be on a form to be prescribed by the city auditor's office.

**2004(1)-1505. Application--Investigation of.**--The chief of police shall investigate the facts stated in the application filed with the council pursuant to the provisions of § 2004(1)-1504 of this article, and shall report the results of his investigation to the council prior to the hearing on said application. Said investigation and report shall include the character, reputation, fitness of the applicant to hold a license, any other pertinent information and the recommendation of the chief of police as to whether or not such license should be granted. In addition, the council may request and consider such other recommendations and reports of other city officials.

**2004(1)-1506. Licenses--Classifications.**--Licenses authorizing the sale at retail of alcoholic beverages within the city of Frontier shall be divided into the following classes:

- A. Class A. A Class A license shall authorize the licensee to sell "on-sale" or "off-sale."
- B. Special event license which can only be issued to a Class A licensee for sale of alcoholic beverages for isolated events at places other than the licensed premises.

**2004(1)-1507. License--Fees.**--

- A. Initial issuance fee--For a license granted which is not a renewal or a transfer of an existing license, the following fees shall be payable as hereinafter provided:
  - Class A--\$250,000A non-refundable payment in the sum of \$200,000 shall be paid at the time issuance of the license is approved by the city council pursuant to § 2004(1)-1508 of this article. The

remainder of the initial issuance fee [\$50,000] shall be payable upon issuance of the license, but not more than 30 days after date of approval by the city council; provided, that the time for payment of the remaining balance of the initial issuance fee may, with the approval of the city council, be deferred and paid by periodic payments within 180 days after the date of approval. In the event that the applicant fails to pay the remainder of the initial issuance fee within 30 days, or such other time as may have been approved by the city council, the approval shall be deemed to have expired and the \$200,000 payment by the applicant shall be forfeited.

Immediately upon payment of said \$200,000, there will be created a full-time police department [or other comparable arrangement involving the Cass County Sheriff, or other law enforcement agency under terms mutually acceptable under jurisdiction created by way of a joint powers agreement(s)] charged with the responsibilities of law enforcement within the City of Frontier, North Dakota. Pending creation of such police department, any function assigned to the police as part of this licencing plan will be performed by the city attorney for Frontier, North Dakota.

- B. Annual fees shall be payable at the beginning of each license year in the amount of \$5,000.
- C. The transfer of a license issued pursuant to the provisions of this article shall require a transfer fee equal to the total annual cost of the license being transferred; provided, however, that a transfer fee shall not be imposed for the following-described transfers:
  - 1. When an individual holding a license issued pursuant to the provisions of this article has become deceased, the license may, upon application of the personal representative of the decedent, be transferred to another individual, partnership, firm or corporation.
  - 2. When any corporation holding a license issued pursuant to the provisions of this article voluntarily dissolves, a license may be issued to any individual shareholder in such corporation who held said stock at the time of the issuance or last renewal of the license and whose application is approved by the holders owning a majority of the outstanding shares of stock in said corporation prior to the time of dissolution; provided, however, that such shareholder shall be subject to all the requirements of this article relating to the application for a license and to the qualifications of a licensee.
  - 3. When any licensee under the provisions of this article applies for and receives the approval of the council on the change of location of the licensed premises.
  - 4. When an individual licensee desires to transfer a license to a corporation in which the licensee is the owner of at least 75% of the outstanding shares of stock in said corporation; provided, however, that such licensee may not permit his stock ownership in the transferee corporation to fall below a majority of the outstanding stock in said corporation without the prior approval of the council

and payment of the required transfer fee. The transferee corporation shall be subject to all the requirements of this article relating to the application for a license and the qualifications of a licensee.

5. When a licensee is a corporation or partnership which desires to transfer a license to another corporation or partnership having substantially the same partners or stockholders; provided, however, that such transferee corporation or partnership shall be subject to all the requirements of this article relating to the application for a license and the qualifications of a licensee.
- D. In addition to the fees set forth in paragraphs A, B and E of this section, each application for a new license, or a transfer of a license pursuant to § 2004(1)-1504 of this article shall, at the time of submission of his application for such issuance or transfer, pay to the city auditor, the sum of \$250 as a minimum non-refundable fee for the investigation which is required by § 2004(1)-1505 of this article. Any additional costs incurred by the city in connection with such investigation shall be paid by the applicant prior to the hearing on said application and shall not be refunded in the event that the applicant is not successful.
- E. In addition to the fees and costs set forth in paragraphs A, B, C and D of this section, each licensee who applies for and receives a license for a special event shall, upon conclusion of said special event pay to the city auditor, a sum of money sufficient to defray the extra costs incurred by the city in providing police protection for said event. The amount of such extra cost shall be determined by the police chief and an appropriate statement sent to the licensee, but in no event shall said extra costs exceed the sum of \$300.
- F. The license fees set forth in subsection B of this section shall be for a period of one year from July 1 through June 30 and shall be payable in advance at the time of the issuance of the license and thereafter, on or before June 10 of each subsequent year; provided, however, upon written request of the licensee, the council may, in its discretion, permit payment of 50% of any said license fee in advance at the time of the issuance of the license and on or before June 10 in case of renewal, with the remaining 50% payable on December 1 of the license year.
- G. If an application is made for the issuance of a license at a time other than the beginning of the license year, the license fee shall be prorated on a monthly basis of the unexpired term of the license commencing on the first day of the month in which the application is filed and any subsequent renewal of said license shall be for a full license year.

**2004(1)-1508. Issuance and transfer of licenses--Restrictions--Hearing required.--**

- A. No license shall be issued or transferred without approval of the council. A special event license for sale of alcoholic beverages at a place other than the licensed premises may be issued by the city auditor, without notice or hearing.

- B. When an application for any license [other than a license for a special event] is filed with the council pursuant to the provisions of § 2004(1)-1504 of this article, the city auditor shall cause notice to be published in a newspaper of general circulation within the city of Frontier [Frontier Post] and also in the Forum [which is a newspaper having large circulation in the area] that the applicant has applied for a license to sell alcoholic beverages at the place named in the application or for the transfer of an existing license, and that the application will be acted upon by the council on a certain day and time. A hearing on the application shall be held not less than 10 days nor more than 30 days after the date of publication. The expense of the publication, in addition to the license fee, shall be paid by the applicant to the city auditor prior to publication.
- C. At the time of the hearing on the application, the council shall, in its discretion, determine if the issuance or transfer of the license is in the best interests of the public health, safety, morals and general welfare of the community. Among the factors to be considered by the council in granting or denying a license or a transfer are the following:
1. The convenience of police regulation. If the police department is being created by the first application for a license under these laws, the license will be effective only after creation of the police department, but no later than 90 days after the council grants the license.
  2. Public health and sanitation.
  3. The proximity of other businesses licensed to sell alcoholic beverages.
  4. The proximity of schools, churches, funeral homes, public buildings or buildings used by or for minors.
  5. Protests of neighboring property owners or occupants.
  6. Zoning regulations.
  7. Interference with neighboring properties.
  8. Suitability of premises for sale of alcoholic beverages.
  9. Public convenience and necessity.
  10. Number of such licenses already in existence. This factor will play no role so long as there are no licenses for the sale of alcoholic beverages.
  11. Economic impact upon other such licensed premises. This factor will play no role so long as there are no licenses for the sale of alcoholic beverages.
  12. Sufficiency of the application required by § 2004(1)-1504 of this article.

13. Recommendations and reports of city officials, such as the chief of police, chief of the fire department, building inspector, health officer, and any other official submitting a recommendation or report at the request of the city council.
- D. No transfer of any license shall be approved by the council until the transferee has submitted a license application and has met all the requirements imposed upon an applicant for a new license.
  - E. No license issuance or transfer authorizing off-sale of any kind shall be approved by the council for the sale of alcoholic beverages on premises, any part of which are closer than 100 feet to any grocery store, drug store or gasoline service station, or any portion thereof; provided, that this restriction shall not apply to a transfer which is an assignment, sale, exchange or other conveyance of a license.
  - F. The number of licenses which may be issued by the city council shall be limited as follows:
    1. Class A: Two (2).
    2. Special events licences: Four (4) per year per Class A licensee.

**2004(1)-1509. Restrictions on sale, service or dispensing of alcoholic beverages.--**

- A. No licensee, his agent or employee, shall sell, serve or dispense any alcoholic beverage to a person under 21 years of age; and no licensee, his agent or employee, shall permit any person under 21 years of age to be furnished with any alcoholic beverage upon the licensed premises.
- B. No person under 21 years of age shall be permitted to enter any portion of licensed premises in which alcoholic beverages are sold, served or dispensed; nor shall anyone under the age of 21 years be employed in any portion of licensed premises in which alcoholic beverages are sold, served or dispensed except as provided in subsections (C) and (D) of this section.
- C. Any person under 21 years of age may enter and remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the room in which alcoholic beverages are opened or mixed and if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area. Any person who is employed by the restaurant as a food waiter, food waitress, busboy or busgirl may not engage in the sale, dispensing, delivery or consumption of alcoholic beverages; provided, that any person who is between 19 and 21 years of age may be employed by the restaurant to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person 21 or more years of age. A law enforcement officer, or person cooperating with and under the control of such law enforcement officer, under the age of 21 years may enter premises where alcoholic beverages are sold, dispensed, or consumed in the performance of an official duty. Any establishment where alcoholic

beverages are sold may employ persons from 18 to 21 years of age to work in the capacity of musicians under the direct supervision of a person over 21 years of age. Any person under 21 years of age may remain in the area of and event where beer, wine, or sparkling wine is sold in accordance with the conditions of an event permit issued pursuant to § 5-02-01.1, N.D.C.C., and the city's comparable ordinance.

- D. Any person under 21 years of age may enter and remain in a restaurant where alcoholic beverages are being sold when accompanied by a parent or legal guardian, whether or not the restaurant is separated from the room in which alcoholic beverages are opened or mixed and whether or not gross sales of food are equal to gross sales of alcoholic beverages.
- E. "Reserved for possible future action."
- F. No licensee, his agent or employee shall sell, serve, consume or permit to be sold, served or consumed on the licensed premises any alcoholic beverages after 1:00 a.m. on Sundays, before 12:00 noon on Sundays, or between the hours of 1:00 a.m. and 8:00 a.m. on all other days of the week; nor shall any licensee, his agent or employees sell, serve or permit to be sold, served or consumed on the licensed premises any alcoholic beverage after 1:00 a.m. on Thanksgiving Day, or on Christmas Day or after 6:00 p.m. on Christmas Eve. For purposes of this provision, any person having a glass or other opened container containing an alcoholic beverage in close proximity or otherwise available for consumption shall be deemed to be consuming an alcoholic beverage.
- G. All licensed premises shall be closed and locked not more than one-half hour after the termination of business hours as specified in subsection (F) of this section and no persons shall be permitted to remain on said premises thereafter except for the owner and his employees for normal cleaning and maintenance activities; provided, that a licensee may remain open for the purpose of providing food service pursuant to subsection (D) of § 2004(1)-1511 of this article.
- H. No license to sell alcoholic beverages under the provisions of this article shall entitle the holder thereof to carry on such business at more than one location under any one license and each license shall contain a legal description of the place where the holder thereof operates such business; provided, however, the foregoing provision shall not apply in the case where a licensee, in addition to his regular license, is granted a special event license to engage in the sale of alcoholic beverages at the place designated in the special event license.
- I. No licensee, his agent or employee shall sell or serve, or permit to be sold or served on the licensed premises any food other than prepackaged, confectionery items such as peanuts, potato chips and similar items, and prepackaged sandwiches, pizza and similar food products which are prepared and packaged off the licensed premises; provided, that this prohibition shall not apply to licensed establishments which hold a restaurant license or permit issued by the City of Frontier. As of this date, Frontier has not passed any

ordinances authorizing the issuance of a restaurant license or permit. Until such ordinances are approved, the prohibition in this ordinance remains effective.

**2004(1)-1509.1 Restrictions on sale or consumption in a public place.--**

- A. No owner, manager or person having control of any public place shall serve, permit to be served, or permit any person to drink alcoholic beverages in such place, unless such place has been duly issued an appropriate license under this article.
- B. No person shall mix, prepare, serve or consume alcoholic beverages in any public place unless such place has been duly issued an appropriate license under this article.

**2004(1)-1510. Cabaret license.--**

- A. No licensee shall feature or permit entertainment without first having obtained a cabaret license, as set forth hereinafter, provided that a licensee may permit certain forms of background music as specified and limited herein without obtaining such license. This entertainment shall only include forms and types of instrumental performances such as a piano, string ensemble, or other instrumental ensemble. Such entertainment shall not include any form of dancing.

Even if a cabaret license is issued, the city council further prohibits the following:

- 1. No live performances are permitted on a licensed premise which contain any form of dancing. Such prohibition on dancing does not include the incidental movement or choreography of singers or musicians which are made in connection with their singing or playing of a musical instrument. This restriction applies to all licensed premises whether or not they have a cabaret license. Live performances are defined as meaning any person who for consideration, monetary or otherwise, performs in person on a licensed premise as a singer, musician, dancer, comedian, or model.
- 2. No live performances are permitted on a licensed premise which involve the removal of clothing, garments or any other costume. Such prohibition does not include the removal of headwear or footwear; or the incidental removal of a tie, suitcoat, sportcoat, jacket, sweater or similar outer garments. Incidental removal for purposes of this section shall mean the removal of a garment or article of clothing which is not a part of the act or performance. This restriction applies to all licensed premises whether or not they have a cabaret license.
- 3. No entertainment on a licensed premise shall contain:
  - (a) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(b) The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;

(c) The actual or simulated displaying of the pubic hair, anus, vulva or genitals; or the nipples of a female.

(d) Any action that would be prohibited under N.D.C.C. Chap. 12.1-27.1 entitled, "Obscenity Control."

These restriction(s) applies to all licensed premises, and any commercial businesses, whether or not they have a cabaret license.

4. A licensee shall have the duty and responsibility to make available for inspection by a member of the Frontier Police Department an identification card, such as a driver's license, containing a photograph and the age of all entertainers or performers on the licensed premises. The licensee shall not permit a person to make a live performance on the licensed premise if the licensee is not able to obtain the required identification from the performer.

B. The license fee for a cabaret license shall be \$500 per year.

C. The license fee set forth in subsection (2) of this section shall be for a period of one year from July 1 through June 30 and shall be payable in advance at the time of the issuance of the license and thereafter, on or before June 10 of each subsequent year for renewal of said license.

D. Application for a cabaret license shall be made by the licensee on forms provided by the city auditor's office of the city of Frontier. The granting of a cabaret license shall be subject to the approval of the council and it may be suspended or revoked in conformance with the procedures established by § 2004(1)-1512 of this article.

E. No licensee shall feature or permit entertainment at a time when the licensed premises are closed for alcoholic beverage sale, service or consumption pursuant to § 2004(1)-1509 of this municipal code.

**2004(1)-1511. Licensed premises--Requirements for.--**

A. Every licensed premise must be equipped with adequate and sufficient lavatories and toilets separately maintained for men and women and kept in a clean and sanitary condition.

B. Every licensee shall equip his establishment with tables and chairs in sufficient number to accommodate his patrons.

C. Every licensee is hereby made responsible for the conduct of his place of business and is required to maintain order and sobriety in such place of business. No intoxicated



person or persons shall be permitted to remain upon the premises licensed or to be served or furnished any alcoholic beverages by any licensee.

- D. A licensee shall not be permitted to utilize licensed premises as a food service establishment at times or on days when the sale and dispensing of alcoholic beverages is prohibited.

**2004(1)-1512. Licenses--Termination, suspension, revocation.**--All licenses issued under the provisions of this article, unless otherwise specifically provided, shall terminate on June 30th next following the date of issuance; provided, however, that any license issued under the provisions of this article may, under certain circumstances, terminate automatically or may be terminated, suspended or revoked by the council.

- A. Any license issued under the provisions of this article shall automatically terminate:
1. Upon the death of the licensee unless, upon application to the council by the personal representative of the decedent, the council shall consent to the carrying on of such business by the personal representative. Said application must be submitted to the council within 30 days of the licensee's death.
  2. When the licensee, for any reason, ceases business at the licensed premises, except as permitted in accordance with § 2004(1)-1507(H) of this article. Business shall be deemed to have ceased upon occurrence of any of the following:
    - a. When no sale of alcoholic beverages occurs on the licensed premises for a period of at least 30 consecutive business days; or
    - b. When alcoholic beverages are not sold on the licensed premises on at least 15 of any 60 consecutive business days; or
    - c. When the licensed premises are not open for normal business for at least 180 hours in any 60 consecutive business days;provided, however, upon written request of the licensee, the council, in its discretion and for good cause shown, may extend the date upon which business shall be deemed to have ceased.
  3. When any license or permit of the licensee from the United States government or state of North Dakota to sell alcoholic beverages at the licensed premises has terminated or been revoked.
- B. The council may, in its discretion, suspend or revoke for cause any license issued under the provisions of this article. The grounds for suspension or revocation shall, among others, include the following:

1. The licensee has filed a petition in bankruptcy.
  2. An individual licensee, one of the partners in a partnership licensee, or one of the officers in a corporation licensee, or any individual in active management of the licensed business is convicted of violating any of the provisions of this article.
  3. The licensee has been convicted of a felony under the laws of the United States or under the laws of one of the several states.
  4. The business of the licensee, at the location licensed, is conducted in such a manner as to be in violation of the health and sanitary regulations of the city of Frontier, or the State of North Dakota.
  5. The licensee has made any false statement in his application for a license.
  6. The licensee conducts his business in a manner which results in, encourages or is conducive to the creation of disturbances of the peace, disorderly conduct or any other violations of federal, state and/or city laws.
- C. The grounds enumerated in subsection (2) of this section shall not be deemed to be exclusive and any license issued under the provisions of this article may be suspended or revoked by the council for any other reason deemed by the council to be sufficient in order to promote and protect the public health, safety, morals and general welfare of the people of the city of Frontier. When any license is suspended or revoked by the council pursuant to the provisions of this section, or when the licensee voluntarily ceases business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him.
- D. No license issued under the provisions of this article shall be suspended or revoked for cause by the council without a public hearing. In the event that the council intends to consider the suspension or revocation of any license for cause, it shall direct the city auditor to notify the licensee of its intention to consider the same. The notice shall specify the time and place of the suspension or revocation hearing and shall be served upon the licensee or his managing agent in the same manner as provided by law for the service of a summons in a civil action. No suspension or revocation hearing shall be held before the expiration of 15 days after the date of the service of the notice upon the licensee.
- If, upon such hearing, it appears to the council that sufficient cause exists for the suspension or revocation of a license issued pursuant to the provisions of this article, the council shall make its order suspending or revoking the said license.
- E. Penalties for failing compliance checks conducted by the Frontier police department are as follows:
1. First offense - \$500 penalty. This penalty may be waived if the person serving

the alcoholic beverages, as well as the management, have server training certificates. There will, however, be mandatory server training within 30 days for any employee or member of management not having server training. There will be no license sanction on a first offense.

2. Second offense - \$750 penalty. No license sanction penalty.
3. Third offense - \$1,000 penalty - one day suspension of license with the date selected by licensee within thirty (30) days of either occurrence of the offense or final decision upon appeal.
4. Fourth offense - no monetary penalty - three days in one week suspension of liquor license on consecutive dates chosen by licensee requiring the business to be closed.
5. Fifth offense - no monetary penalty - seven consecutive day suspension of license with the dates selected by licensee requiring the business to be closed for liquor sales.
6. Sixth offense - no monetary penalty - ten consecutive day suspension of license with the dates selected by licensee requiring the business to be closed for liquor sales.
7. Seventh offense - no monetary penalty - revocation of liquor license.

The foregoing penalties for failing compliance checks will be those offenses occurring within a one-year period. Said one-year period commences to run and is calculated (365 days) from the first offense by the licensee. The city of Frontier police department, in conjunction with the Safe Communities Coalition [created in Fargo, Cass County, North Dakota] or some entity having similar objectives, will make a reasonable effort to conduct up to four compliance checks a year at each licensed liquor serving establishment in the city. In the event a licensed establishment fails to pass compliance checks during such visits, the same may result in additional compliance checks being conducted at that establishment during the year. The server training referenced above shall be approved by the Frontier police department and/or the Safe Communities Coalition [created in Fargo, Cass County, North Dakota] or some entity having similar objectives, for managers and employees involved in selling alcoholic beverages at licensed liquor establishments, including restaurants. Persons successfully completing the approved class will receive a "server training certificate card" which will remain with that individual wherever employed. The "server training certificate card" is not required to be carried on the person so long as the same can be produced at a later date. The "server training certificate card" must be renewed every three (3) years on the anniversary date as shown on the said card. For all new managers and employees not having previously received server training, there shall be a grace period of 60 days in which to successfully complete the approved class. On each license renewal date, the licensee shall provide the city with a roster of employees which can then be checked

against the training records. If the licensee is found to be not in compliance, license renewal for the upcoming year may be denied or delayed.

- F. “Reserved for possible future use.”
- G. Sanctions or penalties under subsections E and F above may not be invoked without a public hearing if so requested by the licensee. Upon written notification by the city auditor’s office that a penalty is being sought under subsections E and F above, the liquor licensee may notify the city auditor’s office within ten (10) days and request a hearing on the proposed penalty. A hearing shall be set by the city council specifying the time and place of the hearing, and shall further describe the reason for said hearing, and shall be served upon the liquor licensee in the same manner as provided by law for the service of a summons in a civil action. No suspension hearing shall be held before the expiration of fifteen days after the date of service of the notice. The hearing for said suspension shall be heard by the city council. A record of the hearing shall be made by electronic recording device.  
  
If, upon such hearing, it appears to the majority of the city council that sufficient causes exists for the penalty sanctions, the city council shall make its order in accordance with the provisions of this article. The city council shall further issues its findings, conclusions and order which shall be served on the liquor licensee. The order is appealable pursuant to Chapter 28-34 of the North Dakota Century Code.
- H. The provisions of this section shall not apply to a special event license which may be suspended or revoked without prior notice or hearing.

**2004(1)-1513. Unlawful practices.**--In addition to such other prohibitions as are contained in this article:

- A. It shall be unlawful for any person to sell or consume any alcoholic beverage in any automobile, or upon any street, alley or public highway, including any public sidewalk or boulevard, or on any private property without consent of the owner or occupant within the city of Frontier. It shall further be unlawful for any person to possess any bottle or receptacle containing any alcoholic beverage which has been opened or the contents of which have been partially consumed while such person is upon any street, alley or public highway, including any public sidewalk or boulevard, or upon property owned, operated or leased by the city of Frontier or by the state of North Dakota or any political subdivision or agency thereof, within the city of Frontier, except under a valid alcoholic beverages license issued under this article.
- B. The sale, possession, use or consumption of alcoholic beverages shall be unlawful and prohibited in and on the premises of any public building except as may be authorized by appropriate license or permit issued pursuant to this article.

- C. It shall be unlawful for any person under 21 years of age to misrepresent his or her age for the purpose of purchasing or drinking any alcoholic beverage or for the purpose of entering any premises licensed under the provisions of this article.
- D. It shall be unlawful for any person, either personally or through an agent or employee, to procure, furnish or deliver any alcoholic beverage for the use of any person under 21 years of age.
- E. No licensee shall deliver or permit to be delivered to any customer outside the licensed premises any alcoholic beverages sold under the terms and provisions of this article unless the package containing such alcoholic beverage shall be securely wrapped and shall contain on the outside thereof, in plain, legible writing, the name of the dealer selling the same and also the name and address of the purchaser thereof.
- F. No driver of any taxicab operating or driving the same in the city of Frontier shall at any time possess, carry or have in such taxicab any alcoholic beverages except that such driver may accept for delivery to a customer from a dealer regularly licensed under the provisions of this article any package or packages thereof when such packages are wrapped and addressed as provided in subsection (E) above. Any police or other peace officer of the city shall have the right to enter and search any taxicab operating in the city under a license from said city or elsewhere at any time he may have reason to believe or suspect that the driver of such vehicle is violating the provisions hereof.
- G. No owner, operator, officer or employee or driver of any taxicab in the city of Frontier shall accept from any person, except a dealer regularly licensed under the provisions of this article, any order for the delivery of any alcoholic beverage.

**2004(1)-1514. Inspection of licensed premises.**— The members of the city council of the city of Frontier, the chief of police, or any officer of the health or police department may, at any time, enter upon any licensed premises for the purpose of police inspection or to determine whether the licensed premises are in compliance with any and all ordinances of the city.

**2004(1)-1515. Penalty.**--Any person, firm or corporation violating §§ 2004(1)-1509 or 2004(1)-1513 of this article shall, upon conviction thereof, be punished by a fine not to exceed \$500 or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court, the court to have power to suspend said sentence and to revoke the suspension thereof.

Every person, firm or corporation violating any other sections of this article shall, upon conviction thereof, be punished by a fine not to exceed \$500; the court to have power to suspend said sentence and to revoke the suspension thereof.

**ARTICLE 2007-1  
FIREWORKS ORDINANCES**

**2007-01. Ban on Sale of fireworks in the city of Frontier unless permit issued.<sup>6</sup>**

As used in this section the term “fireworks” means any substance or combination of substances or articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation and includes blank cartridges, toy cannons, and toy canes in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, sky rockets, Roman candles, daygo bombs, sparklers, or other fireworks containing any explosive or inflammable compound, or any tablets or other devices containing any explosive substance and commonly known as fireworks. The term “fireworks” shall not include toy paper caps containing not more than .25 of a grain of explosive composition per cap.

Except as otherwise provided in this ordinance, it shall be unlawful for any person to offer for sale, expose for sale, sell at retail or wholesale, any fireworks within the limits of the city of Frontier without first obtaining a City of Frontier Sale of Fireworks Permit issued by the City Auditor (a) on or before the second Monday in May, and (b) after payment of a permit fee of \$5,000.00 which will only allow (a) retail sale of fireworks during the period of June twenty-seventh through July fifth of said calendar year, and (b) the sale of fireworks at wholesale during the period of May fifteenth through July fifteenth of said calendar year in conformity with N.D.C.C. Chap. 23-15. Said permit holder shall still be required to fully comply with the provisions of N.D.C.C. Chap. 23-15 and the conditions set forth in the City of Frontier's Application for Sale of Fireworks Permit.

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<sup>6</sup> *Ordinance 2004-02 was approved the City Council of Frontier, Cass County, North Dakota, on the 10th day of May, 2004; it was amended by Ordinance 2007-01 on April 9, 2007; and later amended on January 14, 2013.*

**CITY OF FRONTIER, CASS COUNTY, NORTH DAKOTA  
FLOOD DAMAGE PREVENTION ORDINANCE - NO MAP<sup>7</sup>**

**SECTION 1.0**

**1.1 STATUTORY AUTHORIZATION**

The legislation of the State of North Dakota has in North Dakota Century Code Chapters 40-47, 11-33 and 58-03 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Frontier, Cass County, North Dakota does ordain as follows:

**1.2 FINDINGS OF FACT**

- (1) The flood hazard areas of Frontier, Cass County, North Dakota are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which can increase flood heights or velocities, and when inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

**1.3 STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;

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<sup>7</sup> Ordinance No. 2011-1 was approved the City Council of Frontier, Cass County, North Dakota, on the 12<sup>th</sup> day of September, 2011

- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges;
- (6) To help maintain a stable tax base by minimizing future flood blight areas;
- (7) To ensure that those who occupy the flood-prone areas assume responsibility for their actions.
- (8) To ensure that those who occupy areas prone to flooding assume responsibility for their actions.

#### **1.4 METHODS OF REDUCING FLOOD LOSSES**

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.



## SECTION 2.0

### DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow waters, and/or
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Lowest floor" means the lowest floor of a structure including the basement.

"Manufactured home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation. It does not include recreational vehicles or travel trailers unless placed on a site for 180 consecutive days or more.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

"Structure" means a walled and roofed building, including manufactured homes as well as gas or liquid storage tanks above the ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. This term includes structures which have incurred substantial damage regardless of the actual repair work performed.

The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure listed on the National Register of Historic Places or on a State Inventory of Historic Places.

"Violation" means a failure of a structure or other development to be fully compliant with the community's floodplain management ordinance.

## **SECTION 3.0**

### **GENERAL PROVISIONS**

#### **3.1 LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all areas within the jurisdiction of Frontier, Cass County, North Dakota.

#### **3.2 COMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.

#### **3.3 GREATER RESTRICTIONS**

This ordinance is not intended to repeal, remedy, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **3.4 INTERPRETATION**

In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and

- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

### **3.5 WARNING AND DISCLAIMER OF LIABILITY**

This ordinance shall not create liability on the part of any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

## **SECTION 4.0**

### **ADMINISTRATION**

#### **4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT**

A development permit shall be obtained before construction or development begins within the community. Application for a development permit shall be made on forms furnished by the Building Inspector/Zoning Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the areas in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

#### **4.2 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The Building Inspector/Zoning Administrator is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

#### **4.3 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

Duties of the Building Inspector/Zoning Administrator shall include, but not be limited to:

##### **4.3-1 Permit Review**

Permit applications shall be reviewed (using the best available base flood elevation data from any federal, state, or local source) to:

- a) assure sites are reasonably safe from flooding;

- b) determine that all necessary permits have been obtained from those federal, state, or local agencies from which prior approval is required; and
- c) to determine if the proposed development adversely affects the flood carrying capacity of a flood-prone area.

For the purposes of this ordinance, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

- (1) If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further considerations.
- (2) If it is determined that there is an adverse effect, then technical justification (i.e., registered professional engineer) for the proposed development shall be required.
- (3) If the proposed development is a building, then the building shall be elevated.

#### **4.3-2 Alteration of Watercourses**

The local administrator [Building Inspector/Zoning Administrator] shall:

- (1) notify adjacent communities, the respective water resource district, and the North Dakota State Engineer prior to any alteration or relocation of any watercourse.
- (2) require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

### **SECTION 5.0**

#### **PROVISIONS FOR FLOOD HAZARD REDUCTION**

##### **5.1 GENERAL STANDARDS**

If a proposed building site is located in a flood-prone area, all new construction and substantial improvements (including the placement of pre-fabricated buildings and manufactured homes) shall conform to the following standards:

###### **5.1-1 Anchoring**

- (1) All new construction and substantial improvements (including additions) shall be anchored to prevent flotation, collapse or lateral movement of the structure.

#### **5.1-2 Construction Materials and Methods**

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage. The best method for the reduction of flood damage in North Dakota is the elevation of the lowest floor of a structure on compacted earthen fill.
- (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

#### **5.1-3 Utilities**

- (1) All new and replacement water supply systems and sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- (3) On-site waste disposal systems shall be located to avoid impairment or contamination during flooding.

#### **5.1-4 Subdivision Proposals**

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.