



**AGENDA**  
**MANDAN CITY COMMISSION**  
**APRIL 19, 2011**  
**ED "BOSH" FROELICH MEETING ROOM**  
**5:30 P.M.**  
**[www.cityofmandan.com](http://www.cityofmandan.com)**

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**City Board of Equalization meeting at 6:00 p.m. on April 19, 2011**

- A. ROLL CALL:
1. Roll call of all City Commissioners and Department Heads.
- B. MINUTES:
1. Consider approval of minutes from the following meetings of the Board of City Commissioners:
    - i. April 5, 2011 – Regular Meeting
    - ii. April 14, 2011 – Special Meeting
- C. PUBLIC HEARING:
- D. BIDS:
- E. CONSENT AGENDA:
1. Consider approval of monthly bills
  2. Consider approval of annual Liquor License, Special B Liquor Permit and Special Sunday Permit for Dacotah Speedway
  3. Consider approval of a site authorization for ABATE of North Dakota at the HideAway from July 1, 2011 through June 30, 2012
  4. Consider approval of the following site authorizations:
    - i. American Foundation for Wildlife at The Lakewood Bar & Grill from July 1, 2011 through June 30, 2012
    - ii. American Foundation for Wildlife at the Last Call Bar from July 1, 2011 through June 30, 2012
  5. Consider request from Business Development and Communications Office to amend 2011 budget
  6. Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Lakewood 6<sup>th</sup> Addition (Water & Sewer Imp Project #2011-05)
- F. OLD BUSINESS:

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G. NEW BUSINESS:

1. Safety Committee Update
2. Consider entering into a Cost Participation and Maintenance Agreement with the NDDOT for the maintenance of Highway 1806 from 14<sup>th</sup> Street NW to city limits.
3. Consider the creation of Street Improvement District No. 166 Project # 2011-04. (Lakewood 6<sup>th</sup> Addition).

H. RESOLUTIONS & ORDINANCES:

1. Consider correction on second and final reading of Ordinance 1091 to implement changes to Ordinance 1013 relating to the Establishment of Downtown Core and Fringe Districts and establishment of zoning regulations for the DC Downtown Core District and DF Downtown Fringe District; and providing for Severability and an Effective Date
2. Consider second and final reading of Ordinance No. 1092 an ordinance to amend and reenact sections 7-01-01 and 7-01-07 of the Mandan Code of Ordinances, relating to adoption of a Uniform Fire Code and amendments to the International Fire Code and to provide an effective date.

I. OTHER BUSINESS:

J. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. May 3, 2011
2. May 9, 2011 Working Session of Board (location tba)
2. May 17, 2011
3. June 7, 2011

K. ADJOURN

*Departmental planning meeting will be held the Monday prior to the Commission meeting, all Commissioners are invited, noon, Dykshoorn Conference Room. Please notify the city administrator by 8:30 a.m. that Monday if you plan on attending. If more than two commissioners plan on attending, proper public notice must be given.*

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The Mandan City Commission met in regular session at 5:30 p.m. on April 5, 2011 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Rohr, Frank, and Jackson. Department Heads present were Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development and Communications Director Huber, Kim Fettig for Engineering Project Manager Bechtel, and City Assessor Barta. Absent: Commissioner Tibke, Engineering Project Manager Bechtel, Finance Director Welch.

MINUTES: Consider approval of the minutes for March 15, 2011, meeting of the Board of City Commissioners. Commissioner Jackson moved to approve the minutes as presented. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

BIDS:

1. Consider the award of bids for Sidewalk Improvement Project for 2011. Kim Fettig from the Engineering Department, in the absence of Dave Bechtel, reported that two bids were received with the lowest bid being from Dakota RM Construction at \$280,860. The Engineer’s office recommends approval of the bid to Dakota RM Construction.

Commissioner Rohr moved to approve the award of bids for Sidewalk Improvement Project for 2011 to Dakota RM Construction in the amount of \$280,860. Commissioner Jackson seconded the motion. Commissioner Frank noted that on the bid comparison sheet between the two bidders, there appears to be areas of the bid that indicate a price difference when comparing the line items of services. She suggested that future bid processes consider breaking down some bid line items in order to take advantage of differences in (lower) pricing. Mayor Helbling stated that Commissioner Frank’s suggestion would be taken under advisement and discussed with the Engineering Department for future considerations.

Roll call vote: Commissioner Rohr: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. Commissioner Tibke: Absent. The motion passed.

CONSENT AGENDA:

1. Consider the following proclamations:  
(i) Designating May 16-20, 2011 as Bike-To-Work Week in the City of Mandan, and (ii) Designating May 21, 2011 as National Kids to Parks Day in the City of Mandan. The Board approved of the following proclamations: (i) Designating May 16-20, 2011 as Bike-To-Work Week in the City of Mandan, and (ii) Designating May 21, 2011 as National Kids to Parks Day in the City of Mandan.

2. *Consider for approval Sunday openings for the Moscow for April 3rd through June 26, 2011.* The Board approved of the Sunday openings for the Moscow for April 3rd through June 26, 2011.
3. This item removed per the request of Commissioner Frank for discussion.
4. *Confirmation of special assessments for various projects.* The Board approved of the special assessments for various projects.
5. *Consider approval of the Replat of Lot 1, Block 4 of Lakewood Harbor 4<sup>th</sup> Addition.* The Board approved of the Replat of Lot 1, Block 4 of Lakewood Harbor 4<sup>th</sup> Addition.
6. *Consider for approval Sunday openings for Dean's Steak House for April 10, 2011 – June 26, 2011.* The Board approved of the Sunday openings for Dean's Steak House for April 10, 2011 – June 26, 2011.

Commissioner Jackson moved to approve the Consent Agenda items No. 1, 2, 4, 5 and 6 as presented and amended. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

3. *Consider approval of a variance – Robert Weigel.* City Assessor Barta stated that Mr. Weigel would like to tear down his existing garage and replace it with a building that is larger. Mr. Weigel is asking for a variance for lot coverage and also distance from the alley. The requirement is recommended at 5' but Weigel is requesting 3'. The existing garage is built on the alley. Barta mentioned that Weigel wants to improve the condition and size of the current building structure. Commissioner Rohr stated that he viewed the existing garage and its location. He said that it would be to the city's advantage to move it away from the alley as it currently sits right now. A newly constructed building would be an improvement to the property as well as advantageous in moving it away from the alley boundary line. Commissioner Frank commented that if the newly constructed garage is larger in size @ 20'x36' than it is now, the lot coverage would increase to 54.9% and it would look "full". The current lot coverage allowance of RM zone guidelines allows a 40% lot coverage. She asked if a new standard sized garage was built @ 12' x 22', would he be able to follow the current ordinances which are 5' set back and a 40% lot coverage; or is it the proposed plan for building a double garage that is putting him over the top? Barta stated that the current garage is 12' x 22' and that with the request to enlarge the new garage @ 20' x 36', he would be able to accomplish that. Barta stated that in order to consider a setback/lot coverage variance for new garage construction the planning commission and the board shall not approve variances unless the evidence presented in each specific case supports the following:

- (1) Strict compliance with the requirements of these regulations would result in extraordinary hardship to the sub divider, as distinguished from a mere inconvenience, because of the particular physical surroundings, shape or topographical conditions of the specific property involved or because of other conditions not caused by the action of the sub-divider. The current request meets these criteria.
- (2) The granting of the variance would not have the effect of reducing the traffic capacity of any major or secondary street. *The current request does not meet these criteria.*

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- (3) The granting of the variance would be beneficial to the public safety, health or welfare and not injurious to other property located adjacent to the proposed modifications. *The current request does not meet these criteria.*
- (4) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and not applicable generally to the other property. *The current request does not meet these criteria.*
- (5) The variance is consistent with provisions of the zoning ordinance, comprehensive plan and proper development of the area. *The current request does not meet these criteria.*

Barta indicated that the criteria under No. (1) meets the request for an approval of the variance by Mr. Weigel. Mayor Helbling commented that he also viewed the location of the property and the request presented and that he agrees that this would be an improvement to the area. He didn't think it would have a negative effect on the neighborhood nor a negative impact to the City. Commissioner Frank commented that it is her opinion that the homeowner build a single stall garage rather than a double stall garage in order to comply with the ordinances in place. Commissioner Jackson asked Mr. Weigel if he had considered the construction of a single stall garage. Mr. Weigel stated that constructing a single stall garage would be a possibility. He did mention that that he owns two vehicles and that it is a single lane driveway. He explained the inconvenience he is experiencing with the existing (single stall) garage set-up versus the construction of a double stall garage and how that would improve the vehicle parking situation. Barta stated that the lot size is 3500 sq. ft. and the standard size of a double garage is 24' x 24'.

Commissioner Jackson moved to approve a variance request by Robert Weigel for 3' set-back from the side and for a 20' x 30' newly constructed garage. Commissioner Rohr seconded the motion. Commissioner Frank inquired if the reduction of 6' would have impact on the lot coverage. Mr. Barta stated that it would be at 51.48%

Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: No; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

OLD BUSINESS:

NEW BUSINESS:

1. *Consider recommendation from the Pension Committee related to fund changes within the plan.* City Administrator Neubauer stated that the Pension Committee met recently with a representative from Edward Jones to perform the annual review of investment funds. Two meetings have been held with employees that were well attended. Neubauer stated that Edward Jones is recommending two changes: (1) Remove American Funds Capital Inc Bldr R4 and replace it with Mutual Global Discovery R.; and (2) Remove Columbia Value & Restructuring A and replace it with Prudential Jennison Equity Income A. Neubauer stated that the Pension Committee was advised that the funds in these two areas have a higher risk and the replacement funds are a lower

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risk with comparable returns. This change will have no impact to the City of Mandan. The recommendation comes from the Pension Committee and there were no employee comments received on the recommended changes.

Commissioner Frank motioned to approve the recommended changes as presented from the Pension Committee related to fund changes within the City of Mandan's Retirement Plan investment options. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

2. *Presentation regarding the economic impact of the Mandan Airport.*

Jim Lawler, Manager of the Mandan Municipal Airport and Mason Short, CM of Kadrmaz, Lee and Jackson presented information related to the economic impact of aviation in North Dakota and the Mandan Municipal Airport. The Mandan Municipal Airport is a general aviation airport located approximately four miles south of Mandan. This study consisted of collecting data from the airports within the state and there was 100% participation along with government and visitor data. The North Dakota Aeronautics Commission sponsors an aviation impact study for North Dakota for information and use by government agencies. The economic impacts for Mandan Municipal Airport include employment, payroll and output (goods and services provided). The impacts are broken down: (1) First Round Impact includes both on-airport and visitor impacts. On-airport impacts are those benefits associated with on-airport businesses and government tenants. Visitor impacts generally take place off-airport and are attributable to visitor spending. (2) Secondary impacts consist of induced impacts which are those benefits that result from the re-circulation and re-spending of on-airport and visitors impacts within the economy. This recirculation is generally referred to as the "multiplier effect". (3) Total impacts are the combination of first round and second round impacts.

The Impact Measures consist of (1) Employment (2) Payroll (3) Economic activity. North Dakota's total annual economic benefit from aviation: Total jobs: 15,480; Total Payroll: \$589 million; Total Output: \$1.6 billion and is defined as the total amount expended; consumed or sold on airports; amount of capital investment and to some degree the payroll that was calculated. In short, if there was money changing hands or any economic activity is what was used to quantify, such as visitors coming to the area and spending. Mandan Airport Statistics: 3<sup>rd</sup> largest general aviation airport in North Dakota. Short reviewed the current statistics and upcoming projects scheduled and the total economic impacts for the airport: \$2.3 million on-airport impacts; \$329,000 visitor impacts; \$1.7 million multiplier impacts. The airport has 31 employees associated with the airport with a payroll of \$1 million with an output of \$4.4 million. The state and local sales tax impact is \$117,900.

Larry Taborsky, Aeronautics Commission Director extended a thank-you to the City of Mandan for supporting the Aeronautics Aviation Commission. He commended Mandan for its interest in growing the Mandan Airport functions and services over the past 15 years.

3. *Consider fire service line for south portion of 300 block of West Main.*

Business Development and Communications Director Huber presented a request to approve paying expenses to install a fire service line for the south portion of the 300 block of West Main Street. She stated that fire code requires a fire sprinkler system in public buildings that exceed occupancy above 100. The water line needed to serve these systems is larger than that installed in buildings on Main Street. Some buildings are required to have sprinkler systems and more will need them in the future. City personnel have met and researched options and costs to bring a fire service line from the water main on Main Street to the middle of the sidewalk. The line under the sidewalk would be the city's responsibility for future maintenance. It would then be up to each property owner to get the line from the middle of the sidewalk into their respective buildings and to pay for those costs. Funding for the city's share of the costs is estimated to be \$22,000 and would come from the Sales Tax Fund and the Growth Fund.

Commissioner Frank motioned to approve that the City of Mandan pay expenses not to exceed \$22,000 for the project to provide a fire service line to the south portion of the 300 block of West Main. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

**RESOLUTIONS & ORDINANCES:**

1. *Consider second and final reading of Ordinance No. 1093 an ordinance to create a new section to the Mandan Code of Ordinances to create a section dealing with initiative and referendum.* City Attorney Brown explained that Supreme Court cases initiatives and referendums contained in a Home Rule Charter, which Mandan has; in order for that to become fully effective, it should be implemented by Ordinance. That issue was not involved in the Noise Ordinance litigation but in reviewing the Ordinances since the City of Mandan adopted the Home Rule Charter, there was no ordinance found that would directly address the issue and referendum. In other words the Home Rule Charter is one document and the Ordinances are the implementation of many things, including the Home Rule Charter. Brown thought that it would be best to implement the initiatives and referendum portion of the Home Rule Charter by Ordinance and that is what is outlined in Ordinance No. 1093.

Commissioner Jackson moved to approve the second and final reading of Ordinance No. 1093 an ordinance to create a new section to the Mandan Code of Ordinances to create a section dealing with initiative and referendum. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

**ORDINANCE NO. 1093**

**INITIATIVE AND REFERENDUM**

An Ordinance to create a new section to the Mandan Code of Ordinances to create a section dealing with initiative and referendum.

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BE IT ORDAINED by the Board of City Commissioners of the City of Mandan, as follows:

**1-01-12. INITIATIVE AND REFERENDUM.** Ordinances may be initiated or referred pursuant to Article 4 of the Home Rule Charter for the City of Mandan.

By: /s/ Timothy A. Helbling  
President, Board of City  
Commissioners

ATTEST:

/s/ James Neubauer  
City Administrator

First Reading: March 15, 2011  
Second Reading and Final Passage: April 5, 2011

2. *Consider second and final reading of Ordinance No. 1094 an ordinance to amend Section 2-01-04 of the Mandan Code of Ordinances relating to passage of ordinances.* City Attorney Brown stated that this has to do with the full reading vs. reading of the title of ordinances in that all ordinances shall be “considered” twice and the second consideration shall not be had in less than one week after the first consideration. And after such consideration before their final passage, such ordinances may be amended and shall then be put upon their second consideration and final passage.

Commissioner Jackson moved to approve the second and final reading of Ordinance No. 1094 an ordinance to amend Section 2-01-04 of the Mandan Code of Ordinances relating to passage of ordinances. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

## **ORDINANCE NO. 1094**

An Ordinance to Amend  
Section 2-01-04 of the Mandan Code of Ordinances  
Relating to Passage of Ordinances

Be it Ordained by the Board of City Commissioners as follows:

Section 2-01-04 of the Mandan Code of Ordinances is hereby amended to read as follows:

Section 2-01-04. Passage of Ordinances.

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All ordinances shall be considered twice, and the second consideration shall not be had in less than one week after the first consideration; and after such consideration, before their final passage, such ordinances may be amended and shall then be put upon their second consideration and final passage; and, if passed by the governing body, shall be signed by the president of the governing body and attested by the city auditor.

By:

/s/ Timothy A. Helbling

President, Board of City  
Commissioners

Attest:

/s/ James Neubauer

City Administrator

First Reading:

March 15, 2011

Second Reading and Final Passage:

April 5, 2011

3. *Consider correction on introduction and first reading of Ordinance 1091 to implement changes to Ordinance 1013 relating to the Establishment of Downtown Core and Fringe Districts and establishment of zoning regulations for the DC Downtown Core District and DF Downtown Fringe District; and providing for Severability and an Effective Date.* City Attorney Brown stated that this is to approve the mistake in the title only from a previous reading. Commissioner Rohr moved to approve the correction on introduction and first reading of Ordinance 1091 to implement changes to Ordinance 1013 relating to the Establishment of Downtown Core and Fringe Districts and establishment of zoning regulations for the DC Downtown Core District and DF Downtown Fringe District; and providing for Severability and an Effective Date. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

4. *Consider introduction and first reading of Ordinance No. 1092 an ordinance to amend and reenact sections 7-01-01 and 7-01-07 of the Mandan Code of Ordinances, relating to adoption of a Uniform Fire Code and amendments to the International Fire Code and to provide an effective date.* Fire Chief Nardello stated that the Fire Department uses the International Fire Code to enforce the prevention of fire in the City of Mandan and every three years the International Fire Code updates their codes. The request is to switch from the 2006-2009 Fire Code and within that code there are two amendments and those changes should not affect any of the existing buildings or businesses within the City of Mandan. With regard to the two amendment requests, one

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is regarding emergency planning. The Fire Code requests that we have crowd managers for events in excess of 250 people and this would affect both indoor and outdoor events. The recommendation is to delete this section 403.3 from code. The other amendment is to recommend deleting No. 4 of section 903.2.7 having to do with a requirement that any mercantile building, regardless of size or occupancy that sells or displays upholstered furniture to sprinkler the entire building. Chief Nardello stated that these amendments are similar to the City of Bismarck's Uniform Fire Code and Amendments.

Commissioner Frank moved to approve the introduction and first reading of Ordinance No. 1092 an ordinance to amend and reenact sections 7-01-01 and 7-01-07 of the Mandan Code of Ordinances, relating to adoption of a Uniform Fire Code and amendments to the International Fire Code and to provide an effective date as amended. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

OTHER BUSINESS:

1. *2011 City Wide Spring Cleanup:* Jeff Wright, Director of Public Works, provided the following information related to the upcoming spring cleanup schedule: April 11<sup>th</sup> is the official start of spring cleanup week. However, on Saturday, April 9<sup>th</sup>, and again on Saturday, April 16 the Landfill will be open from 8 am to 5 pm both days. The disposal of items will be free of charge to City of Mandan residents. City crews will be picking up additional garbage items on regularly scheduled pickup days. There are certain items that will not be allowed such as carpets and tires. Those items can be taken to the landfill by the residents. There is no charge for disposing of them. The street sweeping cleanup will be scheduled the week after spring cleanup.

There being no further actions to come before the Board, Commissioner Frank moved to adjourn the meeting at 6:32 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

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James Neubauer,  
City Administrator

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Timothy A. Helbling,  
President, Board of City  
Commissioners

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The Mandan City Commission met in special session at 9:00 a.m. on Thursday, April 14, 2011 in the Dykshoorn Meeting Room at City Hall. Commissioners present via teleconference call were: Helbling, Tibke, Frank, Jackson and Rohr. Department Head present was City Administrator Neubauer. Absent: City Attorney Brown.

MINUTES:

PUBLIC HEARING:

BIDS:

CONSENT AGENDA:

OLD BUSINESS:

NEW BUSINESS:

1. *Consider approval of Games of Chance for Pathfinder Parent Center for April 14-16, 2011.* Commissioner Jackson motioned to approve the games of chance for Pathfinder Parent Center for April 14-16, 2011. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

RESOLUTIONS & ORDINANCES:

OTHER BUSINESS:

There being no further actions to come before the Board, Commissioner Tibke moved to adjourn the meeting. Commissioner Jackson seconded the motion. The motion received unanimous approval of the Board members present and the meeting adjourned at 9:02 a.m.

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James Neubauer,  
City Administrator

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Timothy A. Helbling,  
President, Board of City  
Commissioners

Corporation Liquor License Application

1. Type of License:

Liquor On-Sale X Off-Sale \_\_\_\_\_ Class: A B C D E F W B M P  
(Circle One)

Beer On-Sale X Off-Sale \_\_\_\_\_ Class: A B C D E F W B M P

2. Duration of License: Annual: (July 1, \_\_\_\_\_ to June 30, \_\_\_\_\_)  
Part of Year from: \_\_\_\_\_, 20 \_\_\_\_\_ To \_\_\_\_\_, 20 \_\_\_\_\_

3. Name of Business Establishment at which license will be used: Dacotah Speedway

4. Corporate Identification Information: Please complete all of the following:

- a. Name of Corporation: Bismarck-Mandan Stock CAFE Assoc. Inc.
- b. Date of Incorporation: 1988
- c. State of Incorporation: North Dakota
- d. Amount of Authorized Capital Stock: \_\_\_\_\_
- e. Amount of Paid Capital: \_\_\_\_\_
- f. If, subsidiary, Name of Parent Corporation: \_\_\_\_\_
- g. Purpose of Incorporation: \_\_\_\_\_

5. Description of Licensed Premises: Address: 2500 Long spaw Trail - Mandan

Legal Description: (Lot & Block): Lot 1, Block 2 in Midway 1st Add.  
(Also Submit on an attached page a Diagram of the physical layout of the licenses premises including, A minimum: doors, storage areas, & areas where liquor/beer is purchased and consumed.)

6. List Names, Current Addresses, and Dates of Birth, ages & citizenship of all the Officers, Directors, Managers, Agents, and all Persons Holding 1% or more of the Capital Stock in the Corporation. (Note: Separate Notarized List of each individual's Name, Social Security Number and Addresses for last 5 years is required, the Privacy of which will be maintained by City but is required for Background Check:

NA

7. List Names, Current Addresses, Dates of Birth, ages & citizenship of All Persons Who will have charge, management or control of the establishment for which the license is requested. (Note: Separate Notarized List of each individual's Name, Social Security Number and Addresses for last 5 years is Required, the Privacy of which will be maintained by City but is required for Background Check:

See Attached Board of Directors

8. Name of Individual who is to be in Charge of the Day-to-Day Operations and management of the licensed premises: and will be responsible for complying with the municipal ordinances and state laws covering the operation of the premises:

Name: Teresa Seeman Address: 4645 24th Ave

City: Mandan State: ND Age: \_\_\_\_\_ DOB: \_\_\_\_\_ Citizenship: \_\_\_\_\_

If naturalized, give date and Place of Naturalization: \_\_\_\_\_

List all Other Places of Residence within last 5 Years: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. List the occupations and employers of each of the individuals listed in answer to questions 6, 7 and 8 during the last 5 years. (Use a separate page to answer this question). See attached

10. Ownership/Lease: If licensed premises is owned by Applicant, provide date of purchase. \_\_\_\_\_ (If licensed premises is leased, attach copy of executed and dated Lease.)

11. Does Applicant certify that all property taxes have been paid to date on the licenses premises?  
Yes \_\_\_\_\_ No \_\_\_\_\_ NA

12. Have any of the individuals identified in answer to Questions 6, 7, and 8 ever engaged in the sale or distribution of alcoholic beverages (as an owner, manager, or employee) at a location other than in the City of Mandan at any time prior to this application. Yes: \_\_\_\_\_ No: X (If yes, explain in detail on a separate page location, type of business and dates of license or employment).

13. Have any of the individuals identified in answer to Questions 6, 7 and 8 ever had a license of any kind (including alcoholic beverage license, other business licenses or motor vehicle license) suspended, revoked or non-renewed by any political subdivision, state or federal agency. Yes: \_\_\_\_\_ No: X (If yes, explain in detail on a separate page)

14. Have any of the individuals identified in answer to Questions 6, 7 and 8 ever been convicted of a violation of any law of the United States, or of any state or political subdivision, other than minor traffic violations, (but including reckless driving or driving under the influence). Yes \_\_\_\_\_ No: X (If yes, explain the violation in detail on a separate page.)

15. Do any of the individuals named in answer to questions 5, 6 or 7 have any interest whatsoever in any other liquor establishment, either at wholesale or retail, within or without the state of North Dakota. (The interest which must disclose also includes a right of inheritance by law or by will). Yes \_\_\_\_\_ No: X If, yes please explain in detail on a separate page.

16. Does anyone other than the Corporation applying for this alcoholic beverage license or the business owing the premises have any right, estate, or interest in the lease hold, building, or furniture, fixtures or equipment, in the premises for which the license is requested. Yes \_\_\_\_\_ No: X (If yes, explain in detail on a separate page).

17. Does the Corporation applying for this alcoholic beverage license have any agreement, contract, understanding or intention to have any agreement, contract or understanding, with any person, partnership, or corporation to obtain for any other person, partnership or corporation, or to transfer to any other person, partnership or corporation the license for which this applications is made or to obtain for any other person, partnership or corporation, for any other purpose other than for the specified use of the applicant. Yes \_\_\_\_\_ No: X (If yes, explain in detail on a separate page).





CITY OF MANDAN

SPECIAL "B" LIQUOR PERMIT

Date of Application: April 11, 2011

Name of Licensee: Bismarck-Mandan Stock Car Assoc. Inc.

Address of Licensee: Box 6272 Bis N.D. 58606

Address of public facility if used: 2500 Longspur Trail

State the purpose for which this permit will be used: Mandan Rodeo

Date(s) of requested (not to exceed 3 day) July 2, 3, 4, 2011

Time of day which the applicant desires the permit to be in effect: 8:00 A.M To midnight

Does this organization have approval of the Mandan Park District for this application?

Yes  No

Hub Bergman  
Signature of Applicant

Kami Mall  
Received by:

Date Received: 4-11-11

Commission Approval: \_\_\_\_\_

\$100.00 per Event - Amount paid \$ 100.00

CITY OF MANDAN

SUNDAY ALCOHOLIC BEVERAGE PERMIT

Date of Application: April 11, 2011

Name of Licensee: Bismarck-Mandan Stock Car Assoc. Inc.

Address of Licensee: Box 6272 Bismarck ND 58506

Address of public facility if used: 2500 Longspur Trail

State the purpose of organization: Promote Auto Racing

Date(s) of requested Sunday(s): June 5, July 3, July 31  
Aug 14

Time of day which the applicant desires the permit to be in effect: 12:00 Noon To 12<sup>AM</sup> Midnight

Description of the rooms on the premises, which have been specifically reserved, for the dispensing of alcoholic beverages and dancing during the term of the permit: Main Concession Area & Pit Area

Permission is Requested To Sell in Grandstand at Podio Event

State whether the applicant requests permission to open to the general public, and if so an explanation of the reasons for the request: yes

If applicable, estimated number of police officers necessary to provide security at the dance to be open to the public: None

I the applicant will abide to the following conditions:

- a. Alcoholic beverages may be distributed for consumption on the premises and Dancing may be permitted only in those rooms specifically reserved for event activities;
- b. Dancing and the dispensing of alcoholic beverages shall be permitted only between the hours of twelve noon on the date specified in the permit and one a.m. on the following Monday;
- c. Any conditions or circumstances delineated by the Board relating to the conduct of the event or to the admission of the general public to the event.



**GAMING SITE AUTHORIZATION**  
**OFFICE OF ATTORNEY GENERAL**  
 SFN 17996 (02-2011)

Consent No. 3

G - 0746 (      )  
 Site License Number  
 (Attorney General Use Only)

ABATE of North Dakota is hereby authorized to conduct games of chance under the license granted by the Attorney General of the State of North Dakota at the following location: HideAway the address of which is: 1000 Boundry Road Mandan 58554 Morton  
 (Street) (City) (Zip Code) (County)  
 Date(s) Authorized: Beginning 7/1/11 Ending 6/30/12  
 Specific location where games of chance will be conducted and played at the site (required): Against South Wall

Number of twenty-one tables (required) (if zero, enter "0") : 0

RESTRICTIONS: (to be completed ONLY if restrictions are set by the local governing body)

1. Days of week of gaming operations \_\_\_\_\_

2. Hours of gaming \_\_\_\_\_

3. List each specific game type prohibited \_\_\_\_\_

\_\_\_\_\_  
 Attorney General Date Signature of City/County Auditor Date

PRINT Name / Official Position of person signing above

**INSTRUCTIONS:**

1. City/County Auditors - Retain a **copy** of the Site Authorization for your files.
2. City/County Auditors - Return the **original** Site Authorization form to the Organization.
3. Organizations - Send the **original, signed**, Site Authorization to the Office of Attorney General with any other applicable licensing forms for final approval.

**RETURN ALL DOCUMENTS TO:**

Office of Attorney General  
 Licensing Section  
 600 E Boulevard Ave, Dept. 125  
 Bismarck, ND 58505-0040  
 Telephone: 701-328-2329 OR 800-326-9240



**RENTAL AGREEMENT**  
 OFFICE OF ATTORNEY GENERAL  
 SFN 9413 (Rev. 05-2010)

<b>STATE USE ONLY</b>
SITE LICENSE NO. G- <u>0766</u> )

Site Owner (Lessor) Hidden Inc Dba Hideaway		Site Name Hideaway		Site Phone Number (701) 663-8362
Site Address 1000 Boundry Rd	City Mandan	State ND	Zip Code 58554	County Morton
Organization (Lessee) Abate Of North Dakota		Rental Period to		Monthly Rent Amount
1. Is Bingo going to be conducted at this site? 1a. If "Yes" to number 1 above, is Bingo the primary game conducted? If "Yes," enter the monthly rent amount to be paid. Then answer questions 2 - 7 but do not enter any rent amounts.		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	\$
		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	
2. Is a raffle drawing going to be conducted at this site?		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	\$
3. Is Prize Boards involving a dispensing device conducted at this site?		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	\$
4. Is Twenty-One conducted at this site? Number of Tables with wagers up to \$5 _____ X Rent per Table \$ _____		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	\$
Number of Tables with wagers over \$5 _____ X Rent per Table \$ _____				\$
5. Is Paddlewheels conducted at this site? Number of Tables _____ X Rent per Table \$ _____		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	\$
6. Is Pull Tabs involving both a jar bar and dispensing device conducted at this site? If "Yes," skip questions 6 & 7.		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	\$
7. Is Pull Tabs involving only a jar bar conducted at this site?		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	\$
8. Is Pull Tabs involving only a dispensing device conducted at this site?		<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes	\$ 275.00
				<b>Total Monthly Rent</b> \$ 275.00

**TERMS OF RENTAL AGREEMENT:**

This RENTAL AGREEMENT is between the Owner (LESSOR) and Organization (LESSEE) that will be leasing the site to conduct games of chance.

The LESSOR agrees that no game will be directly operated as part of the lessor's business.

The LESSOR agrees that the (lessor), (lessor's) spouse, (lessor's) common household members, (management), (management's) spouse, or an employee of the lessor who is in a position to approve or deny a lease may not conduct games at any of the organization's sites and, except for officers and board of directors members who did not approve the lease, may not play games at that site. However, a bar employee may redeem a winning pull tab or prize boards involving a dispensing device and sell raffle tickets or sports pool chances on a board on behalf of an organization.

The LESSOR agrees that the lessor's oncall or temporary or permanent employee will not, directly or indirectly, conduct games at the site as an employee of the lessee on the same day the employee is working in the area of the bar where alcoholic beverages are dispensed or consumed.

If the LESSEE provides the Lessor with a temporary loan of funds for redeeming pull tabs or prize boards, or both, involving a dispensing device, the Lessor agrees to repay the entire loan immediately when the lessee discontinues using the device at the site.

The LESSOR agrees not to interfere with or attempt to influence the lessee's selection of games, determination of prizes, including a bingo jackpot prize, or disbursement of net proceeds.

The LESSOR agrees not to loan money to, provide gaming equipment to, or count drop box cash for the lessee.

At the LESSOR'S option, the lessee agrees that this rental agreement may be automatically terminated if the lessee's gaming license is suspended at this site for more than fourteen days or revoked.

Signature of Lessor 	Title President	Date 4/02/11
Signature of Lessee (or Executive Official) 	Title President	Date 4/5/11

(over)



**ANNUAL STATE GAMING LICENSE REAPPLICATION**  
**OFFICE OF ATTORNEY GENERAL**  
 SFN 51575 (Rev. 2-2011)

License Number: (Office Use) G -
License Year Ending: June 30, _____

1. Official, Legal Name of Organization: (Do Not Abbreviate) Abate Of North Dakota		Business Telephone Number: (701) 223-5609	
Business Address: (Street) 1001 South 22nd Street	City: Bismarck	State: ND	Zip Code: 58504
Mailing Address:	City:	State:	Zip Code:
E-mail address: (optional) cutter@abatend.com	Contact Person: Michael Jay	Contact Person Official Position: Gaming Mgr	
2. Is organization recognized as tax exempt by the Internal Revenue Service? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		3. Provide organization's Federal Employer Identification Number (EIN): 45-0369430	
4. City and county in which games of chance will be conducted:			
City: Mandan		County: Morton	
5. Name and Title of Organization's Top Executive Official: (I.e., Cmdr., Pres., etc.) Don Faber, President		Daytime Telephone Number: (701) 226-4884	
6. Name of Gaming Manager: Michael Jay		Daytime Telephone Number: (701) 223-5609	
6a. Signature of Gaming Manager: 		Date: 4/12/11	
7. List Governing Board Members (Print) - The governing board is primarily responsible for properly determining and distributing net proceeds.			
Name: Don Faber President	Telephone Number: (701) 226-4884	Name: Roy Towne Vice President	Telephone Number: (701) 226-1469
Name: Larry Stevahn, Treasurer	Telephone Number: (701) 223-9737	Name: Genie Sauvague, Secretary	Telephone Number: (701) 471-0352
Name: Mike Schmit	Telephone Number: (701) 516-3886	Name: Tom Birkholz	Telephone Number: (701) 214-3194
Name: Mike Cooper	Telephone Number: (701) 471-3388	Name: Terry Rooker	Telephone Number: (701) 426-8685
Name: Randy Love	Telephone Number: (701) 220-1655	Name: Dwight Weisz	Telephone Number: (701) 391-2881
Name: Scott Westergaard	Telephone Number: (701) 425-8489	Name:	Telephone Number:
8. Does the Organization Own or Rent the Premises at Which the Games of Chance will be Conducted? <input type="checkbox"/> Own <input type="checkbox"/> Rent			

**AFFIDAVIT:**

The Top Executive Official declares that the information is correct and authorizes the Attorney General to inspect the organization's bank records.	Signature of Top Executive Official: 	Date: 4/12/11
---	--	------------------

ENCLOSE \$150.00 LICENSE FEE WITH THIS APPLICATION  
 (Check payable to: ND Attorney General)

**RETURN TO:** Office of Attorney General  
 Licensing Section  
 600 E Boulevard Ave Dept. 125  
 Bismarck, ND 58505-0040  
 Telephone: 701-328-2329 OR  
 1-800-326-9240



**CURRENT GAMING EMPLOYEE LIST**  
**OFFICE OF ATTORNEY GENERAL**  
 SFN 54270 (2-2011)

License No. G- 0766

Organization Name: ABATE of North Dakota		
Mailing Address: 1001 South 22nd Street		
City: Bismarck	State: ND	Zip: 58504
Business Phone: 701 223 5609		Cell Phone:

NAME OF GAMING MANAGER: Michael Jay DATE OF HIRE: 9/1/1992

\* PLEASE PRINT OR TYPE \*

EMPLOYEE NAME Please list in Alphabetical order: Last name, First name		TITLE	DATE OF HIRE	IS THE EMPLOYEE PAID BY THE ORGANIZATION	
1.	Michael Jay	Gaming Mgr	9/1/1992	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
2.	Roxanne Hopfauf	Bookkeeper	7/1/2005	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
3.	Howard Burns		8/15/2005	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
4.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
5.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
6.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
7.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
8.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
9.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
10.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
11.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
12.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
13.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
14.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
15.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
16.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
17.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
18.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
19.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
20.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
21.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
22.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
23.				<input type="checkbox"/> YES	<input type="checkbox"/> NO
24.				<input type="checkbox"/> YES	<input type="checkbox"/> NO

RETURN THIS FORM WITH THE STATE GAMING LICENSE REAPPLICATION DOCUMENTS.



GAMING SITE AUTHORIZATION  
OFFICE OF ATTORNEY GENERAL  
SFN 17996 (10-2009)

Consent No. 4i

G - \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Site License Number  
(Attorney General Use Only)

AMERICAN FOUNDATION FOR WILDLIFE is hereby authorized to conduct games of chance under the license granted by the Attorney General of the State of North Dakota at the following location: LANE WOOD BAR + GRILL the address of which is:

4007 SOUTHBAY DR SE MANDAN 58554 MORTON  
(Street) (City) (Zip Code) (County)

Date(s) Authorized: Beginning JULY 1, 2011 Ending JUNE 30, 2012

Specific location where games of chance will be conducted and played at the site (required): WEST WING OUTSIDE OF BAR

Number of twenty-one tables (required)(if zero, enter "0"): 0

RESTRICTIONS: (to be completed ONLY if restrictions are set by the local governing body)

1. Days of week of gaming operations \_\_\_\_\_
2. Hours of gaming \_\_\_\_\_
3. List each specific game type prohibited \_\_\_\_\_

\_\_\_\_\_  
Attorney General Date Signature of City/County Auditor Date  
\_\_\_\_\_  
PRINT Name / Official Position of person signing above

**INSTRUCTIONS:**

1. City/County Auditors - Retain a copy of the Site Authorization for your files.
2. City/County Auditors - Return the **original** Site Authorization form to the Organization.
3. Organizations - Send the **original, signed**, Site Authorization to the Office of Attorney General with any other applicable licensing forms for final approval.

**RETURN ALL DOCUMENTS TO:**

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Licensing Section  
600 E Boulevard Ave, Dept. 125  
Bismarck, ND 58505-0040  
Telephone: 701-328-2329 OR 800-326-9240



**RENTAL AGREEMENT**  
 OFFICE OF ATTORNEY GENERAL  
 SFN 9413 (Rev. 010-2006)

STATE USE ONLY
SITE LICENSE NO.
G- _____ (_____) _____

Site Owner (Lessor) <b>LAKEWOOD BAR + GRILL LLC</b>		Site Name <b>LAKEWOOD BAR + GRILL</b>		Site Phone Number <b>751-2898</b>	
Site Address <b>4007 SOUTH BAY DR SE</b>		City <b>MANDAN</b>	State <b>ND</b>	Zip Code <b>58554</b>	County <b>MORTON</b>
Organization (Lessee) <b>KIMBERLY ANN FOUNDATION FOR W.L.D.L. 192</b>			Rental Period <b>JULY 1, 2010 to JUNE 30, 2013</b>		Monthly Rent Amount
1. Is Bingo the primary game conducted? If "Yes," answer questions 2 - 7 but do not enter rent amounts for questions 3 - 7.			<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
2. Is Bingo involving a dispensing device conducted?			<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
3. Is Twenty-One conducted? Number of Tables with wagers up to \$5 _____ X Rent per Table \$ _____			<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$ 0.00
Number of Tables with wagers over \$5 _____ X Rent per Table \$ _____					\$ 0.00
4. Is Paddlewheels conducted? Number of Tables _____ X Rent per Table \$ _____			<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$ 0.00
5. Is Pull Tabs involving both a jar bar and dispensing device conducted? If "Yes," skip questions 6 & 7.			<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
6. Is Pull Tabs involving only a jar bar conducted?			<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
7. Is Pull Tabs involving only a dispensing device conducted on this site?			<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		\$ <b>275<sup>00</sup></b>
TERMS OF RENTAL AGREEMENT:					Total Monthly Rent \$ <b>275<sup>00</sup></b> 0.00

This RENTAL AGREEMENT is between the Owner (LESSOR) and Organization (LESSEE) that will be leasing the site to conduct games of chance.

The LESSOR agrees that no game will be directly operated as part of the lessor's business.

The LESSOR agrees that the (lessor), (lessor's) spouse, (lessor's) common household members, (management), (management's) spouse, or an employee of the lessor who is in a position to approve or deny a lease may not conduct games at any of the organization's sites and, except for officers and board of directors members who did not approve the lease, may not play games at that site. However, a bar employee may redeem a winning pull tab or bingo card involving a dispensing device and sell raffle tickets or sports pool chances on a board on behalf of an organization.

The LESSOR agrees that the lessor's oncall or temporary or permanent employee will not, directly or indirectly, conduct games at the site as an employee of the lessee on the same day the employee is working in the area of the bar where alcoholic beverages are dispensed or consumed.

If the LESSEE provides the Lessor with a temporary loan of funds for redeeming pull tabs or bingo cards, or both, involving a dispensing device, the Lessor agrees to repay the entire loan immediately when the lessee discontinues using the device at the site.

The LESSOR agrees not to interfere with or attempt to influence the lessee's selection of games, determination of prizes, including a bingo jackpot prize, or disbursement of net proceeds.

The LESSOR agrees not to loan money to, provide gaming equipment to, or count drop box cash for the lessee.

At the LESSOR'S option, the lessee agrees that this rental agreement may be automatically terminated if the lessee's gaming license is suspended at this site for more than fourteen days or revoked.

Signature of Lessor 	Title <b>CBN MANDAN BAR</b>	Date <b>6-1-10</b>
Signature of Lessee (Top Executive's Official) 	Title <b>President</b>	Date <b>6-1-10</b>

(over)

LAKE WOOD

E  
FRONT  
DOOR



Consent No. 4ii



GAMING SITE AUTHORIZATION  
OFFICE OF ATTORNEY GENERAL  
SFN 17996 (10-2009)

G - \_\_\_\_\_ (\_\_\_\_) \_\_\_\_\_  
Site License Number  
(Attorney General Use Only)

*AMER. OWN FOUNDATION FOR W.L.D.L.F.B*

\_\_\_\_\_ is hereby authorized to conduct games of  
(Full, Legal Name of Gaming Organization)

chance under the license granted by the Attorney General of the State of North Dakota  
at the following location: *LAST CALL BAR* the address of which is:

*118 W MAIN* *MANDAN* *58554* *MARTON*  
(Street) (City) (Zip Code) (County)

Date(s) Authorized: Beginning *JULY 1, 2011* Ending *JUNE 30, 2012*

Specific location where games of chance will be conducted and played at the site (required): *MACH. - WEST WALL CENTER OF BAR. BJ TABS EAST WALL NE CORNER OF BAR*

Number of twenty-one tables (required)(if zero, enter "0"): *ONE*

RESTRICTIONS: (to be completed ONLY if restrictions are set by the local governing body)  
1. Days of week of gaming operations \_\_\_\_\_  
2. Hours of gaming \_\_\_\_\_  
3. List each specific game type prohibited \_\_\_\_\_

\_\_\_\_\_  
Attorney General Date Signature of City/County Auditor Date

\_\_\_\_\_  
PRINT Name / Official Position of person signing above

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Licensing Section  
600 E Boulevard Ave, Dept. 125  
Bismarck, ND 58505-0040  
Telephone: 701-328-2329 OR 800-326-9240



**RENTAL AGREEMENT**  
 OFFICE OF ATTORNEY GENERAL  
 SFN 9413 (Rev. 010-2006)

STATEUSE ONLY
SITE LICENSE NO.
G- _____ (____) _____

Site Owner (Lessor) <b>LAST CALL BAR INC</b>		Site Name <b>LAST CALL BAR</b>		Site Phone Number <b>663-9211</b>
Site Address <b>118 W MAIN ST</b>		City <b>MANDAN</b>	State <b>ND</b>	Zip Code <b>58554</b>
Organization (Lessee) <b>AMERICAN FOUNDATION FOR WILDLIFE</b>		Rental Period <b>7-1-11</b> to <b>6-30-12</b>		County <b>MORTON</b>
1. Is Bingo the primary game conducted? If "Yes," answer questions 2 - 7 but do not enter rent amounts for questions 3 - 7.				Monthly Rent Amount
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes				\$
2. Is Bingo involving a dispensing device conducted?				\$
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes				\$
3. Is Twenty-One conducted?				\$
Number of Tables with wagers up to \$5 _____ X Rent per Table \$ _____		<input type="checkbox"/> No <input type="checkbox"/> Yes		\$
Number of Tables with wagers over \$5 <u>1</u> X Rent per Table \$ <u>300</u>				\$ <u>300</u>
4. Is Paddlewheels conducted?				\$
Number of Tables _____ X Rent per Table \$ _____		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
5. Is Pull Tabs involving both a jar bar and dispensing device conducted? If "Yes," skip questions 6 & 7.				\$
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes				\$ <u>200</u>
6. Is Pull Tabs involving only a jar bar conducted?				\$
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes				\$
7. Is Pull Tabs involving only a dispensing device conducted on this site?				\$
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes				\$
TERMS OF RENTAL AGREEMENT:				Total Monthly Rent \$ <u>500</u>

This RENTAL AGREEMENT is between the Owner (LESSOR) and Organization (LESSEE) that will be leasing the site to conduct games of chance.

The LESSOR agrees that no game will be directly operated as part of the lessor's business.

The LESSOR agrees that the (lessor), (lessor's) spouse, (lessor's) common household members, (management), (management's) spouse, or an employee of the lessor who is in a position to approve or deny a lease may not conduct games at any of the organization's sites and, except for officers and board of directors members who did not approve the lease, may not play games at that site. However, a bar employee may redeem a winning pull tab or bingo card involving a dispensing device and sell raffle tickets or sports pool chances on a board on behalf of an organization.

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If the LESSEE provides the Lessor with a temporary loan of funds for redeeming pull tabs or bingo cards, or both, involving a dispensing device, the Lessor agrees to repay the entire loan immediately when the lessee discontinues using the device at the site.

The LESSOR agrees not to interfere with or attempt to influence the lessee's selection of games, determination of prizes, including a bingo jackpot prize, or disbursement of net proceeds.

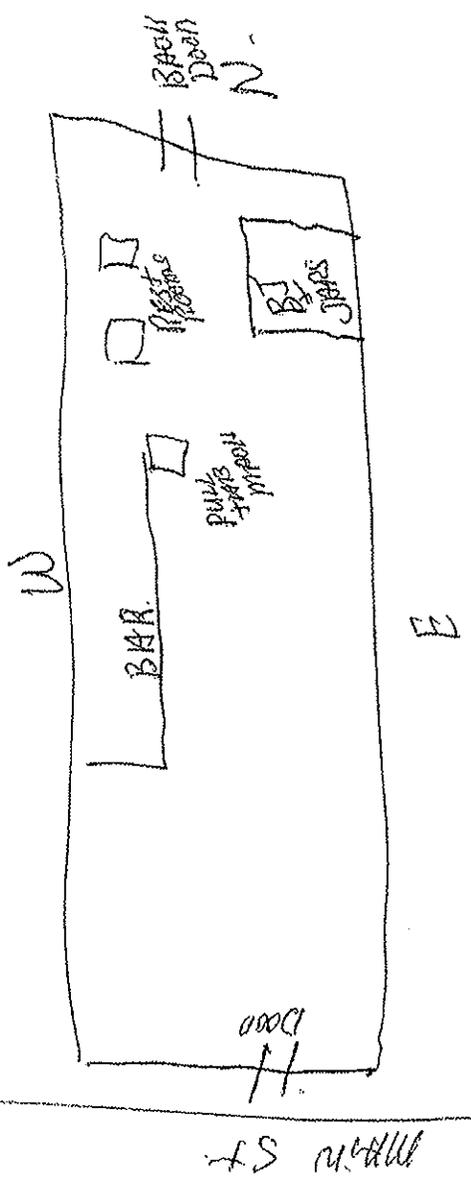
The LESSOR agrees not to loan money to, provide gaming equipment to, or count drop box cash for the lessee.

At the LESSOR'S option, the lessee agrees that this rental agreement may be automatically terminated if the lessee's gaming license is suspended at this site for more than fourteen days or revoked.

Signature of Lessor 	Title <b>President</b>	Date <b>3-21-11</b>
Signature of Lessee (Top Executive Official) 	Title <b>President</b>	Date <b>3-21-11</b>

(over)

77A2 FST  
LAST CALL





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** April 19, 2011  
**PREPARATION DATE:** April 13, 2011  
**SUBMITTING DEPARTMENT:** Business Development & Communications  
**DEPARTMENT DIRECTOR:** Ellen Huber, Business Development & Communications Director  
**PRESENTER:** Ellen Huber, Business Development & Communications Director  
**SUBJECT:** Budget Amendment for the Business Development & Communications Department

---

STATEMENT/PURPOSE: To consider an amendment to the 2011 budget for the Business Development and Communications Department to accommodate revenue associated with the joint community marketing plan.

BACKGROUND/ALTERNATIVES: In August, the Mandan City Commission approved a community marketing plan that highlights great things “Made in Mandan” for businesses, residents and visitors. This included applying \$8,000 from within the Business Development and Communications Department budget in 2010 and 2011 toward projects outlined in the plan. Additionally, the Mandan Park Board and the Mandan Public School District each approved allocations of \$4,500 from within their existing 2011 budgets for the marketing plan. The Mandan Progress Organization also has committed to contributing \$1,000 toward projects (\$500 for the visitors brochure and \$500 for billboards).

The Business Development and Communications Department is serving as a central point of coordination for carrying out the marketing plan. As such, the department budget for 2011 should be adjusted to reflect the additional \$10,000 in anticipated revenue.

Total expenditures within the 2011 budget are sufficient to accommodate the marketing plan approved in August. Any need to increase expenditures would likely be the result of a Year Two plan from the Mandan Tomorrow — Leadership, Pride and Image Committee and would be subject to future consideration.

ATTACHMENTS: n/a

Board of City Commissioners

Agenda Documentation

Meeting Date: April 19, 2011

Subject: Budget Amendment for Business Development & Communications Department

Page 2 of 2

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FISCAL IMPACT: The budget amendment will allow additional financial contributions for the marketing plan.

STAFF IMPACT: n/a

LEGAL REVIEW: n/a

RECOMMENDATION: I recommend approval of the budget amendment to increase revenue in the Business Development and Communications budget by \$10,000.

SUGGESTED MOTION: I move to approve the 2011 budget amendment to increase revenue in the Business Development and Communications budget by \$10,000.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** April 19, 2011  
**PREPARATION DATE:** April 15, 2011  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Lakewood 6<sup>th</sup> Addition (Water & Sewer Imp Project #2011-05)

---

**STATEMENT/PURPOSE:** To authorize the installation of water and sewer for the development of the subject area.

**BACKGROUND/ALTERNATIVES:** This 3 Way agreement would authorize the installation of the water and sanitary sewer main on Oxbow Court SE and Oxbow Trail SE. The cost associated with the construction of these mains would be the responsibility of the Developer entirely.

**ATTACHMENTS:**

1. Petition from Developer
2. Map from KL&J
3. Cost Estimate

**FISCAL IMPACT:** Minimal

**STAFF IMPACT:** Minimal

**LEGAL REVIEW:** All of my commission data has been forwarded to the City Attorney for his review.

**RECOMMENDATION:** This office supports the authorization to move forward with this project.

**SUGGESTED MOTION:** I move to authorize the execution of the 3-way agreement for the construction of the subject project.

Board of City Commissioners

Agenda Documentation

Meeting Date: April 19, 2011

Subject: Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Lakewood 6<sup>th</sup> Addition (Water & Sewer Imp Project #2011-05)

Page 2 of 4

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February 28, 2011

Board of City Commissioners  
City of Mandan  
205 Second Ave NW  
Mandan, ND 58544

**Re: Petition for Sanitary Sewer and Water Service**

Dear Honorable Board of City Commissioners:

Mitzel Builder's Inc. owner of Lots 1-20 Block 1 and Lots 1-5 Block 2, encompassing all of the lots of Lakewood 6<sup>th</sup> Addition, respectively petition your Honorable Board to have sanitary sewer and water main improvements constructed under a development agreement.

It is agreed that the cost of the improvements, including engineering services, shall be paid by the owner. Upon construction and acceptance by the City, the said improvements shall be dedicated to the public. As owner, I further agree to complete the rough grading of the right-of-way or easements prior to water and sanitary sewer construction.

Sincerely,  
**Mitzel Builders, Inc.**



LeeRoy Mitzel  
President, Mitzel Builders, Inc  
2401 46<sup>th</sup> Ave SE #101  
Mandan, ND 58554

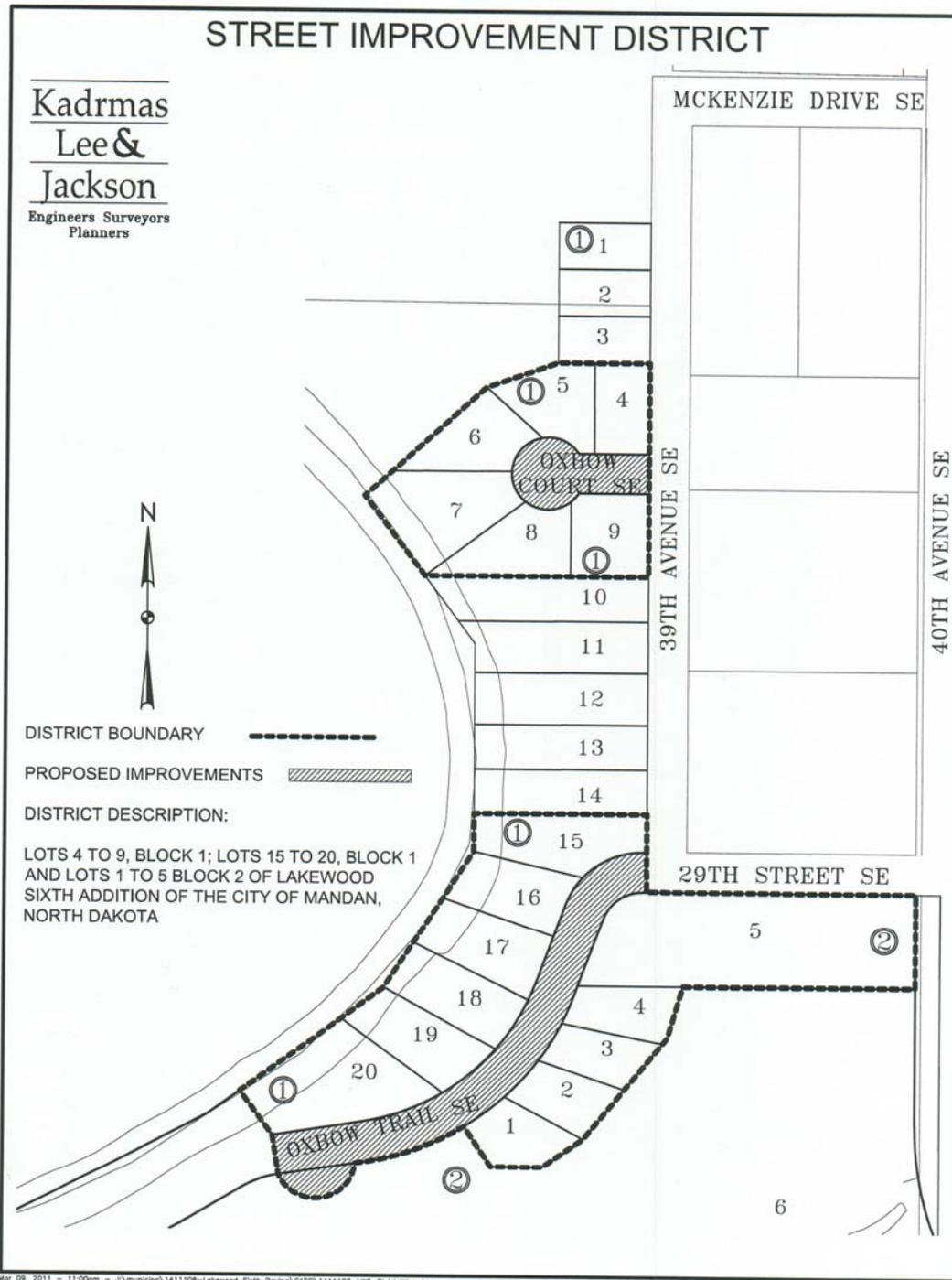
Board of City Commissioners

Agenda Documentation

Meeting Date: April 19, 2011

Subject: Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Lakewood 6<sup>th</sup> Addition (Water & Sewer Imp Project #2011-05)

Page 3 of 4



Board of City Commissioners

Agenda Documentation

Meeting Date: April 19, 2011

Subject: Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Lakewood 6<sup>th</sup> Addition (Water & Sewer Imp Project #2011-05)

Page 4 of 4

**Lakewood Sixth Addition  
Water Sewer Improvements  
Opinion of Probable Cost  
March 9, 2011**

Item No.	Spec Section	Description	Unit	Estimated Quantity	Unit Price	Total Price
1	SP	Mobilization	LS	1	\$ 10,000.00	\$ 10,000
6	401	4" AC Patch Class 27	TON	151	\$ 100.00	\$ 15,100
7	406	Asphalt Removal	SY	685	\$ 3.25	\$ 2,226
8	603	Curb & Gutter Repair	LF	215	\$ 19.00	\$ 4,085
9	801	8" Sanitary Sewer Pipe	LF	970	\$ 24.00	\$ 23,280
10	801	8" Clean Out	EA	1	\$ 475.00	\$ 475
11	801	4" Wye Branch	EA	17	\$ 45.00	\$ 765
12	801	4" Insert Tee	EA	7	\$ 45.00	\$ 315
13	801	Televise Sewer Main	LF	970	\$ 1.50	\$ 1,455
14	801	Pipe Bedding	TON	570	\$ 12.80	\$ 7,296
15	801	Subcut Gravel	TON	64	\$ 23.00	\$ 1,472
16	802	18" Storm Pipe	LF	300	\$ 34.00	\$ 10,200
17	901	6" Hydrant	EA	3	\$ 3,200.00	\$ 9,600
18	901	6" Gate Valve & Box	EA	1	\$ 2,000.00	\$ 2,000
19	901	8" Water Main	LF	1005	\$ 27.00	\$ 27,135
20	901	8" Gate Valve & Box	EA	3	\$ 2,300.00	\$ 6,900
23	1205	Concrete Manhole	EA	1	\$ 4,000.00	\$ 4,000
24	1205	Concrete Manhole W/Mono Base	EA	5	\$ 4,000.00	\$ 20,000
25	1209	1" Water Service Connection	EA	25	\$ 650.00	\$ 16,250
26	1209	1" Water Service Line	LF	725	\$ 26.50	\$ 19,213
27	1209	1" Curb Stop & Box	EA	25	\$ 210.00	\$ 5,250
28	1209	4" Sewer Service Pipe	LF	900	\$ 18.00	\$ 16,200
29	1211	Traffic Control	LS	1	\$ 2,100.00	\$ 2,100
<b>Total Estimated Construction</b>						<b>\$ 205,317</b>
Unanticipated			3%	1	\$ 6,159.50	\$ 6,160
Surveying & Observation			12%	1	\$ 24,638.01	\$ 24,638
<b>Estimated Total Cost</b>						<b>\$ 236,114</b>

**Notes:**

In providing estimates of probable construction cost, the Client understands that the Consultant has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the Consultant's estimates of probable construction costs are made on the basis of the Consultant's professional judgment and experience. The Consultant makes no warranty, express or implied, that the bids or the negotiated cost of the Work will not vary from the Consultant's estimate of probable construction cost. The Client assumes all liability if using this Probable Construction Cost for determining project feasibility or securing project funding/financing.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** April 19, 2011  
**PREPARATION DATE:** April 14, 2011  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** Consider entering into a Cost Participation and Maintenance Agreement with the NDDOT for the maintenance of Highway 1806 from 14<sup>th</sup> Street NW to city limits.

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**STATEMENT/PURPOSE:** To enter into an agreement to provide City funds as part of this maintenance project.

**BACKGROUND/ALTERNATIVES:** A slurry seal, much the same as was put on the local portions of I-94 and Expressway this past summer, will be installed on 1806 North. The project is a DOT project that will take place from 14<sup>th</sup> Street NW north 10.85 miles. The City of Mandan would only be responsible for 10% of the cost of the construction within our corporate limits which amounts to approximately \$5,595.

**ATTACHMENTS:** 1.) Copy of the agreement

**FISCAL IMPACT:** The City of Mandan would look to draw upon the City Sales Tax dollars to fund this agreement amount.

**STAFF IMPACT:** Minimal

**LEGAL REVIEW:** Agenda documents have been forwarded to the City Attorney

**RECOMMENDATION:** I recommend approving entering into the agreement.

**SUGGESTED MOTION:** I move to approve entering into the cost participation and maintenance agreement with the NDDOT for the maintenance of 1806 North.

Board of City Commissioners

Agenda Documentation

Meeting Date: April 19, 2011

Subject: Consider entering into a Cost Participation and Maintenance Agreement with the NDDOT for the maintenance of Highway 1806 from 14<sup>th</sup> Street NW to city limits.

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NDDOT Contract No. 38110370

**North Dakota Department of Transportation  
COST PARTICIPATION AND MAINTENANCE AGREEMENT**

**Federal Award Information – to be provided by NDDOT**

CFDA No: 20.205	CFDA Title: Highway Planning & Construction
Award Name: Federal Aid Highway Program	Awarding Fed. Agency: Federal Highway Admin
NDDOT Program Mgr: Ardin Striefel	Telephone: 701-328-2559

**Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.**

**Project No. SS-SU-1-806(045)075**

WHEREAS, the North Dakota Department of Transportation intends to proceed with the construction of the following-described street improvement:

**Location: 1806 (I-94 NORTH APPROX 10.845 MI)**

**Type of Improvement: Slurry Seal**

**Point of Beginning: RP 74.725**

**Point of Ending: RP 85.812**

NOW, THEREFORE, in consideration of the mutual benefits to be derived therefrom, it is agreed between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Mandan, North Dakota, hereinafter referred to as the City, that NDDOT will construct the project in accordance with the current edition of NDDOT's *Standard Specifications for Road and Bridge Construction* and with the plans approved by the City, identified as project SS-SU-1-806(045)075, and incorporated into this agreement by reference.

1. The City
  - a. Will pay 10 percent of the total cost of all items which are determined eligible for federal aid participation between RP 74.725 and RP 75.858. This total cost will include the actual construction cost plus 10 percent for the preliminary and construction engineering; and
  - b. Will pay 100 percent of the construction costs plus 10 percent for the preliminary and construction engineering of all items not eligible for federal aid participation.
2. The City will pay to NDDOT as the work progresses or when completed its share of the total cost of the project as defined in paragraph 1.
3. It is specifically agreed that if at any time the City fails to pay the amount billed to NDDOT within 60 days after billings, this document shall constitute an assignment of funds derived from the State Highway Tax Distribution Fund now or hereafter coming into the hands of the State Treasurer to the credit of the City, and the State Treasurer is hereby directed to deliver and pay over to NDDOT all funds credited to the City until the total thereof equals the sum billed pursuant to this



Board of City Commissioners

Agenda Documentation

Meeting Date: April 19, 2011

Subject: Consider entering into a Cost Participation and Maintenance Agreement with the NDDOT for the maintenance of Highway 1806 from 14<sup>th</sup> Street NW to city limits.

Page 3 of 8

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agreement. The preliminary cost estimate of the project is \$500,298, with the City's estimated share being \$5,595.

4. All signs, signals, markings, and other protective structures erected on or in connection with the project, including those installed at the sole cost and expense of the City or by others, shall be approved by NDDOT. All traffic control devices will be in conformance with the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.
5. The City will control the length and location of curb openings for future entrances and will not permit the length of curb openings for entrances to exceed the length shown on the plans or as shown on a sketch of typical entrances for similar entrances; and will prohibit the construction or use of any entrances along the project within the City other than those shown on the plans, without prior approval of NDDOT.
6. The City will not change any speed limit signs as shown on the plans without prior approval of NDDOT.
7. The City will prohibit double and diagonal parking and will control all parallel parking where allowed within the limits of the project in a manner satisfactory to NDDOT and to the Federal Highway Administration (FHWA), or both.
8. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
9. Audits must be in accordance with the most current version of OMB Cir. A-133. The City shall submit copies of audits covering the terms of this agreement to NDDOT. This requirement is applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.
10. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.
11. NDDOT is not responsible for any Property Taxes or Special Assessments on property which has been acquired as part of the roadway reconstruction project. The City is responsible to make arrangements for deferral or payment of such Taxes and/or Special Assessments.
12. The City will, at its own expense continue to maintain or cause to be maintained the project area from 14<sup>th</sup> Street Northeast to the Old Red Trail. The maintenance will be in a manner satisfactory to NDDOT and FHWA. The NDDOT will continue to maintain or cause to be maintained the remainder of the project area. Exact limits of the project are shown on the attached map.



Board of City Commissioners

Agenda Documentation

Meeting Date: April 19, 2011

Subject: Consider entering into a Cost Participation and Maintenance Agreement with the NDDOT for the maintenance of Highway 1806 from 14<sup>th</sup> Street NW to city limits.

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Executed by the city of \_\_\_\_\_, at \_\_\_\_\_,  
North Dakota, the last date below signed.

APPROVED:

City of \_\_\_\_\_

\_\_\_\_\_  
CITY ATTORNEY (TYPE OR PRINT)

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\*  
\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

ATTEST:

\_\_\_\_\_  
CITY AUDITOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

Executed for the North Dakota Department of Transportation by the Director at Bismarck, North Dakota,  
the last date below signed.

APPROVED as to substance by:

NORTH DAKOTA  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
DIVISION DIRECTOR (TYPE OR PRINT)

\_\_\_\_\_  
DIRECTOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

\*Mayor or President City Commission

CLA 17058 (Div. 38)  
L.D. Approved 11-07; 7-08; D.K. 03/31/2011



Board of City Commissioners

Agenda Documentation

Meeting Date: April 19, 2011

Subject: Consider entering into a Cost Participation and Maintenance Agreement with the NDDOT for the maintenance of Highway 1806 from 14<sup>th</sup> Street NW to city limits.

Page 5 of 8

**AUTHORIZATION**

At a \_\_\_\_\_ meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, it was moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the attached certification and agreement be approved, and that the \* \_\_\_\_\_ and City Auditor be authorized to execute in behalf of the City of \_\_\_\_\_ and that two executed copies be returned to the NDDOT Director.

Adopted on a vote of \_\_\_\_ aye, \_\_\_\_ nay, \_\_\_\_ absent.

ATTEST:

APPROVED:

\_\_\_\_\_  
CITY AUDITOR (TYPE OR PRINT)

City of \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\*  
\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

**CERTIFICATION**

It is hereby certified that the City of \_\_\_\_\_ will issue improvement warrants to finance the amounts that the City is obligated to pay under terms of the attached agreement with the North Dakota Department of Transportation and that authority to do so has been obtained in accordance with the Section 40-22-06 of the North Dakota Century Code.

Executed at \_\_\_\_\_, North Dakota, the last date below signed.

ATTEST:

APPROVED:

\_\_\_\_\_  
CITY AUDITOR (TYPE OR PRINT)

City of \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\*  
\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

\*Mayor or President City Commission



**Risk Management Appendix**

**Routine\* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:**

**Parties:** State – State of North Dakota, its agencies, officers and employees

**Governmental Entity** – The Governmental Entity executing the attached document, its agencies, officers and employees

**Governments** – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) **Commercial general liability and automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **\$250,000 per person and \$500,000 per occurrence**. The minimum limits of liability required of the State are **\$250,000 per person and \$1,000,000 per occurrence**.
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

**The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.**

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are \$250,000 per person and \$1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

\*See *North Dakota Risk Management Manual*, section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007  
Revised 5-09



APPENDIX A  
Funding Splits for the Mandan 1806 Project  
Project: SS-SU-1-806(045)075

Location	Engineering Estimate	Engineering Cost (10%)	Total Estimate	Federal Funds 80.93%	State Funds 9.07%	City Funds 10%	Total
1806 (RP 74.725 to 75.858)	\$46,598	\$4,660	\$51,258	\$41,483	\$46,491	\$4,660	\$92,634
R/W, Prelim. Eng. & Haul Road Repair *	\$9,354		\$9,354	\$7,570	\$848	\$935	\$9,354
<b>Totals</b>	<b>\$55,952</b>	<b>\$4,660</b>	<b>\$60,612</b>	<b>\$49,053</b>	<b>\$47,339</b>	<b>\$5,595</b>	<b>\$101,988</b>

\* Note: Right-of-way, Preliminary & Construction Engineering, and Haul Road Repair Cost is estimated to be:  
Total = \$0 + \$4,354 + \$5,000 = \$9,354





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** April 6, 2010  
**PREPARATION DATE:** March 29, 2010  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** Consider the creation of Street Improvement District No. 166 Project # 2011-04. (Lakewood 6<sup>th</sup> Addition).

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STATEMENT/PURPOSE: To create a special assessment district for the requested project.

BACKGROUND/ALTERNATIVES: The Engineering office has received a petition from LeeRoy Mitzel requesting the special assessment of the streets within Lakewood 6<sup>th</sup> addition. The location of this plat is west of 40<sup>th</sup> Avenue SE and immediately north of the north boundary of the Mandan Waste Water Treatment Plant. The roads to be paved would be Oxbow Court SE & Oxbow Trail SE. The developer will need to install the needed water and sewer utilities to service the lots within this subdivision and will be required to pay 100% of those costs via a 3-way/Developers Agreement that the City will be asked to enter into.

Costs with the Street Improvement Projects are typically 100% special assessed to the benefitting properties within the District. With the direction to reduce the special assessment burden from the City of Mandan, 3 alternatives will be listed for consideration on this item. Those options are as follows...

- Option #1 - Do not create the district. This option will force the entire costs of the project unto the Developer, should they proceed, and the City will have no special assessment burden.
- Option #2 - Create the district and do as typically is done and special assess 100% of the costs to the benefitting lots.
- Option #3 - Create the district and follow the procedures set forth by Bismarck in making the Developer prepay certain costs of the improvements.

The details of each will be quantified in the Fiscal Impact section below.

We need to keep in mind that Mr. Mitzel has already designated some specials, approximately \$60,000, from property he owns east of 40<sup>th</sup> to be put to these lots, which amounts to approximately \$2,307.69 per lot.

Board of City Commissioners

Agenda Documentation

Meeting Date: April 19, 2011

Subject: Consider the creation of Street Improvement District No. 166 Project # 2011-04.  
(Lakewood 6<sup>th</sup> Addition).

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ATTACHMENTS:

1. District Map
2. Petition by Owner
3. Estimate of Cost
4. Bismarck's Policies & Procedures to Develop Subdivisions

FISCAL IMPACT: The Engineer's estimate provided by KL&J shows the construction cost of \$241,102.00. With 25% normally included for Engineering and Administration, this would bring the total cost of Construction to \$301,377.50. With not all the lots benefitting (only 17 lots of the 26 platted) from the street improvement the cost per lot would be \$16,743.19 for the single family R7 lots and \$33,486.39 for the RM multi-family lot in the district.

Under the 3 scenarios listed above option #1 would be as stated.

Option #2 would be as outlined in this section above.

Option #3 will be outlined below.

Bismarck makes the Developer prepay for some items, of which grading and curb & gutter would be applicable to this project. The details of such are outlined within the Bismarck attachment. The City would need to consider policy for removing the street lights from this estimate as Bismarck does. If we were to follow Bismarck's policy, we remove street light costs, grading costs, and curb and gutter costs to the total of \$78,107.00. This would reduce the cost of construction to \$162,995.00. With the addition of 25% for Engineering and Administration the total construction cost would be \$203,743.75. Using the same cost per lot scenario as in Option #2, the cost per lot would be \$11,319.10 for the single family R7 lots and \$22,638.19 for the RM multi-family lot in the district. Any overages above the estimated amount become the cost solely of the Developer.

STAFF IMPACT: Minimal

LEGAL REVIEW: All of my commission data has been forwarded to the City Attorney for his review.

RECOMMENDATION: This office offers no recommendation for this item

SUGGESTED MOTION: This office offers no suggestion for this item



Board of City Commissioners

Agenda Documentation

Meeting Date: April 19, 2011

Subject: Consider the creation of Street Improvement District No. 166 Project # 2011-04.  
(Lakewood 6<sup>th</sup> Addition).

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February 28, 2011

Board of City Commissioners  
City of Mandan  
205 Second Ave NW  
Mandan, ND 58544

**Re: Petition for Permanent Street Improvement**

Dear Honorable Board of City Commissioners:

We respectfully petition your Honorable Board to have permanent street improvements completed on Oxbow Trail SE. Mitzel Builder's Inc. owner of Lots 15-20 Block 1 and Lots 1-5 Block 2 of Lakewood 6<sup>th</sup> Addition is liable to be assessed for the requested improvements.

It is agreed that the necessary permanent street improvements will be completed following the necessary water and sewer service line stub-outs abutting the subject lots. 100% of the paving costs of said permanent street improvements shall be assessed to or other funding arrangements made by the benefited property. The Owner agrees to pay 100% of the engineering costs for the preparation of construction plans and specifications. It is further agreed that 100% of any temporary street improvements shall be prepaid by the benefited petitioned property.

Sincerely,  
**Mitzel Builders, Inc.**



LeeRoy Mitzel  
President, Mitzel Builders, Inc  
2401 46<sup>th</sup> Ave SE #101  
Mandan, ND 58554

Board of City Commissioners

Agenda Documentation

Meeting Date: April 19, 2011

Subject: Consider the creation of Street Improvement District No. 166 Project # 2011-04.  
(Lakewood 6<sup>th</sup> Addition).

Page 5 of 11

**Lakewood Sixth Addition  
Street Improvement District  
Opinion of Probable Cost  
March 9, 2011**

Item No.	Spec Section	Description	Unit	Estimated		Total Price
				Quantity	Unit Price	
1	SP	Mobilization	LS	1	\$ 5,000.00	\$ 3,000
2	SP	Contract Bond	LS	1	\$ 2,420.00	\$ 2,420
3	204	Subgrade Preparation	SY	5765	\$ 2.25	\$ 12,971
4	401	4.5" AC Paving Course	Ton	1530	\$ 60.00	\$ 91,800
5	402	Asphalt Cement (PG58-28)	Ton	92	\$ 500.00	\$ 46,000
6	402	Bituminous Tack Coat	Gal	500	\$ 2.25	\$ 1,125
7	403	Bituminous Seal Coat	Gal	1700	\$ 2.50	\$ 4,250
8	403	Cover Aggregate	Ton	70	\$ 50.00	\$ 3,500
9	403	Blotter Sand	Ton	5	\$ 10.00	\$ 50
10	403	Sweeping	LS	1	\$ 2,500.00	\$ 2,500
11	603	Standard Curb & Gutter	LF	2196	\$ 16.00	\$ 35,136
12	1001	Street Lights	EA	6	\$ 5,000.00	\$ 30,000
13	1100	Street Name Signs	EA	2	\$ 750.00	\$ 1,500
14	1200	Topsoil	CY	250	\$ 5.00	\$ 1,250
15	1201	Seeding	AC	0.5	\$ 1,500.00	\$ 750
16	1201	Mulch	AC	0.5	\$ 1,500.00	\$ 750
17	1206	Adjust Manhole Casting	SF	5	\$ 400.00	\$ 2,000
18	1211	Traffic Control	LF	1	\$ 2,100.00	\$ 2,100
<b>Total Estimated Construction</b>						<b>\$ 241,102</b>
Design, Surveying & Construction Observation			18%	1	\$ 43,398	\$ 43,398
City Administration & Legal			3%	1	\$ 7,233	\$ 7,233
<b>Estimated Total Cost</b>						<b>\$ 291,734</b>

**Notes:**

1. All quantities were measured from Grading, Water Sewer Plans prepared in January of 2011.
2. Subgrade preparation was based on a measurement from 1-foot behind curb to 1-foot behind curb.
3. AC pavement units were estimated using a 2 tons per cubic yard conversion and a 4.5-inch depth.
4. Asphalt cement units were estimated at 6.0% of the AC tonnage.
5. Tack coat units were estimated using a .10 gallon to SY conversion.
6. Seal Coat units were estimated using a .34 gallon to SY conversion.
7. Cover aggregate units were estimated using a 28 pounds to SY conversion.
8. Blotter sand units were estimated using a 2 pounds to SY conversion.

In providing estimates of probable construction cost, the Client understands that the Consultant has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the Consultant's estimates of probable construction costs are made on the basis of the Consultant's professional judgment and experience. The Consultant makes no warranty, express or implied, that the bids or the negotiated cost of the Work will not vary from the Consultant's estimate of probable construction cost. The Client assumes all liability if using this Probable Construction Cost for determining project feasibility or securing project funding/financing.

**POLICIES & PROCEDURES TO DEVELOP SUBDIVISIONS**

**April 2007**

**Timelines**

A petition for public improvements will not be approved prior to the recording of the plat and annexation of the parcel. Applications for platting, annexation, zoning, and recording are available in the Planning Department, and meetings regarding applications are scheduled by the Planning Department. Petitions for public improvements are made with the Engineering Department.

Petitions for public improvements must be received by July 1, or there will be a greater likelihood that the pavement may not be constructed that fall. If the site requires public bids for water or sanitary sewer (trunk lines or multiple owners) or storm sewer, the petitions for public improvements should be received before June 1. (Street grades with water and sewer plans and specifications must be submitted and approved to allow time for water and sewer to be constructed by early September so the curb and gutter and pavement construction may be completed before inclement weather in the fall prevents further work.) Should oversized mains or drainage facilities be publicly bid, that work must be coordinated with the Engineering Department, and such work will require receipt of prepayments and will likely require developers water and sewer to be constructed by mid August. Prior to the advertisement for the improvements by the CITY, CITY funding must be allocated, easements or rights-of-way acquired, and permits from federal, state, county, township, or railroad must be received. Shop drawings for precast concrete manholes and inlets or other products as needed must be submitted after the 3-Way Agreement plans are accepted by the CITY. Allow several days for shop drawing review by the CITY and whatever additional time is needed for the production and delivery of the products.

**Petition for Public Improvements**

The Landowner or Agent (Developer) must submit a signed and dated petition for water, sanitary sewer, and street improvements (includes curb and gutter, paving, and street lighting) showing all lots or parcels to be serviced and all rights-of-way or easements necessary to contain those improvements. At intersecting streets, each side of a corner lot shall be petitioned for all public improvements. Drainage improvements do not require a petition; however, the Developer must inform the CITY if intending to do all or portions of the work via the 3-Way Agreement process.

- A Developer may have any qualified improvement done by petitioning for a 3-Way Agreement. See petition forms on [www.bismarck.org/engineering/documents](http://www.bismarck.org/engineering/documents).
- A Developer may petition the CITY to hold a public bid for any improvement provided they agree to make appropriate prepayment (see Development Costs Policy below). When there are multiple owners, the CITY may discourage

development if at least 50% of the owners do not join in the petition and agree to make any prepayments. Those not agreeing to prepay would then be assessed the costs if the Board of City Commissioners approve the establishment of a special assessment district. Water, sanitary sewer, drainage, curb and gutter, driveways, sidewalks, paving, street lighting, trunk mains, or oversized mains must be publicly bid before the CITY is allowed by ND Century Code to make payment to a contractor. Therefore, the Developer may not receive a bid via 3-Way Agreement and ask for the CITY to pay oversized costs. See petition forms at [www.bismarck.org/engineering/documents](http://www.bismarck.org/engineering/documents).

- When a special request for improvements more costly than the standard design is made and subsequently approved by the CITY, the increased cost shall be the Developer's sole responsibility and shall be prepaid.

**Development Costs Policy**

**Prepaid by Developer**

Grading  
Basic sewer and water \*  
Curb and gutter \*\*\*  
Trunk line utility charges \*\*\*\*  
Regional storm water charge \*\*\*\*\*  
Local storm water design, plans

**Specially Assessed by CITY**

Street \*\*  
Sidewalk  
Driveway  
Street lights  
Storm sewer  
Trunk line utility charges \*\*\*\*

- \* Basic sewer and water includes the lateral mains and the service line stubouts. Lateral mains are defined as 8" water and sewer in residential zones and 12" water and 10" sewer in other zones such as commercial. Mains larger than these are called trunk or oversize.
- \*\* 40% of cost must be prepaid for lots not zoned R5, R10, RM, or RT Residential.
- \*\*\* Curb and gutter may be 3-way contracted with a bonded contractor approved by the City Engineer.
- \*\*\*\* Based on each R5 zoned parcel, and in increments of 10,000 SF for other zoned parcels, the first \$300.00 of trunk line utility charges are to be prepaid, and the remainder are to be assessed.
- \*\*\*\*\* For new development the developer will be required to prepay a regional storm water charge of \$0.005/SF for residential lots and \$0.01/SF for commercial property. These charges will be held by the CITY and used to offset special assessments for regional storm water facilities to serve these properties.

Note: Prepaid curb and gutter or utility charges may be met with a bank Certificate of Deposit (CD) in the CITY's name and possession for 100% of the prepayment. The security will be held until the lots are built on by the Developer, sold to other builders

and private individuals, or cashed for nonpayment of yearly special assessment installments. A portion of the CDs may be returned to the owner upon partial completion of a subdivision or sold.

### **3-Way Agreement Procedures**

The Developer must hire a professional engineer to prepare plans and specifications for improvements based on approved plat, grading, drainage, and sewer and water master plan. Plans and specifications with master plan must be submitted for City Engineering Department review at least three (3) weeks prior to the date an agreement is desired to be executed. If the street grades are complex, they should be submitted an additional one (1) week earlier for approval. Grade design shall follow CITY policy for shelf and slope needs at intersections. Computer Aided Drafting plans shall be based on National Geodetic Vertical Datum of 1929. The CITY will bill the Developer for actual labor plus 75% overhead and expense costs to review plans and observe construction. The plan review fee will be charged at 2% of the anticipated construction cost, or \$200.00 per plan sheet (not including cover sheet), whichever is less. This fee shall be submitted with the plans and it will be deducted from our final engineering services billing. CITY review is expected to be completed within (two) 2 weeks of submittal.

The CITY review of plans and specifications is intended for the benefit of the CITY only and not for the benefit of any other person or entity. Review and approval of plans or specifications by the CITY does not act to approve any mistakes or deviations from CITY specifications or relieve the engineer or developer from responsibility for errors or omissions in plans or specifications.

The Developer must provide digital CAD files in dwg format and NAD83 State plane coordinates with 1986 adjustments when submitting professional engineer stamped Mylars for City Engineer signature and must be the complete file for use by the City Engineering Department to do as-constructed drawings later.

The City Engineering Department requires five (5) days to review a 3-Way Agreement after all of the documents listed below have been received. See 3-Way Agreement form in [www.bismarck.org/engineering/documents](http://www.bismarck.org/engineering/documents).

- Mylar Plans and Specifications with City Engineer stamp (and digital plans).

- Contractor Bid showing unit prices.

- Change Orders between contractor and developer, if any.

- Payment and Performance Bonds - naming developer and CITY.

- Certificate of Insurance - naming developer and CITY as additional insured, showing project number in description of operations.

- Letter of Credit or Escrow Account from a financial institution indicating the developer has set aside the amount of contract plus 5%. Examples are available and can be provided upon request.

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Small contracts (less than \$10,000.00) in lieu of escrow provide certified check for contract plus 5% to be held by CITY as security. This is not to pay contractor and will be returned when contractor and City Engineer services are paid.

Any other document required.

Any reviews requested prior to plat recordation and annexation will be considered on a case-by-case basis. Reviews of improvements for lands already annexed are a priority.

Once a 3-Way Agreement is approved, construction of improvements may begin, provided that:

- a) Streets are graded to CITY standards, certified by a RLS or PE. See attached standard detail 200-1. If an underground contractor begins and the grading is incomplete, work will be suspended until grading is completed.
- b) Rural approaches with culverts as needed are installed or are a requirement of the 3-Way Agreement.
- c) Erosion control measures are in place for any disturbed lands or are a requirement of the 3-Way Agreement.
- d) ND State Department of Health has approved water and sewer plans.
- e) Shop drawings are approved by the CITY OF BISMARCK Engineering Department.
- f) Developer's land surveyor has staked an appropriate mainline segment and any service lines requested by the contractor and submitted grade (cut/fill) sheets to the CITY to review and mark.

The CITY OF BISMARCK will observe the construction of the improvements for the benefit of the CITY and not for the benefit of the developer or the contractor. The CITY will not instruct or supervise the contractor or the work. The developer is responsible to assure the contractor is in compliance with contract documents. The CITY will inform the developer when partial and final payments are due the contractor based on written requests for payment from the contractor either directly to us or via developer's consultant. The CITY does not measure or keep record of quantities or costs including change orders, therefore does not guarantee their accuracy.

When the improvements constructed under a 3-Way Agreement and the conditions of the 3-Way Agreement are complete and accepted by the CITY OF BISMARCK, the CITY will assume operation and maintenance of the improvement, subject to warranties and unknown deficiencies.

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### **Public Bid Procedures**

For City Engineering designed improvements requiring a public bid, the petitioner should allow about three (3) months from petition acceptance to award of bids. The special assessment district will not be created for a minimum of two (2) weeks after the plat or parcels are recorded and annexed. The special assessment district generally takes six (6) weeks from advertisement to public hearing at a Board of City Commissioners meeting. The CITY will not create an assessment district for a small project; however, the CITY may bundle with other areas to have a combined district. The CITY may advertise the first street improvement district in late March for award of bids in early May if several areas are ready with platting and water and sewer. The next advertisement may be a month later depending on petitions and other submittals received. The CITY requires about one (1) month to schedule the designers and produce the bid documents. It may take more time for sewer and water improvements and less for street improvements. Should an area require storm sewer improvements, the street improvements could be delayed approximately a month. Where the street grades are designed and the plan and profile base sheets are produced digitally by the developer's engineer, the time frame can be minimized.

If the CITY workload is such that designs cannot be accomplished in a reasonable time, the developer may hire a consulting engineer, whose costs would not be a part of the assessment, or the CITY could hire a consulting engineer in accordance with our approved engineering selection policy. Large projects require oral interviews and a selection committee. For smaller projects, engineers can be selected by interest and practicality. For example, the same consultant who developed the water and sewer plans for the developer may be the practical choice to design the street improvement. Whether a large or small project, the selected consultant must submit a scope of work and agreement for approval by the City Commission based on negotiated prices and time of completion.

For developments that require drainage facilities which have been requested to be a public bid, any design information necessary for the CITY to complete the design of inlet and inlet lead, pipe sizing, channel, rip-rap, and pond design must be submitted one (1) month prior to advertisement date.

### **Erosion Control**

Storm water management reports must be submitted with a plat. Should the developer be different from the plat submitter, it does not relieve the developer from providing all of the storm water management needs and erosion control measures specified in the approved storm water management report.

Wind erosion can impact neighboring properties. When dust blows to an extent to impact others, measures shall be taken to mitigate the dust from blowing and depositing and to clean up any area impacted.

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Should the developer fail to correct any erosion impacts immediately, the CITY reserves the right to make corrections and bill the developer and/or to not allow any more aggravating construction activities such as grading, water and sewer excavation, etc. to continue.

**Late Season Construction**

When the curb and gutter are placed under public or private bid but weather or other circumstances prevent pavement construction until the following year, the developer must agree by letter to one of the following:

1. The developer will protect the curb and gutter with gravel.
2. If the developer chooses to not place gravel to protect the curb and gutter and plans to use the unimproved roadway, then the developer shall be responsible for any damages to curb and gutter and/or dirt tracking, and will install or keep the street district installed road closed signs up so the general public does not enter until the pavement is constructed.

In either situation, the CITY will not maintain the unimproved street. All snow plowing or other maintenance will be the sole responsibility of the developer.

**ORDINANCE NO. 1091**

**An Ordinance to Amend and Reenact Sections 21-~~0102~~-03 and 21-03-07 of the Mandan Code of Ordinances relating to Definitions and Use Groups; and to create and enact three new Sections 21-04-17, 21-04-17.1, and 21-04-17.2 relating to Establishment of Downtown Core and Fringe Districts and establishment of zoning regulations for the DC Downtown Core District and DF Downtown Fringe District; and providing for Severability and an Effective Date.**

**Be it Ordained by the Board of City Commissioners as follows:**

SECTION 1. AMENDMENT. Section 21-01-03 of the Mandan Code of Ordinances is hereby amended and reenacted to read as follows:

*“Drive-through Facilities”* means are any portion of a building from which business is transacted, or capable of being transacted, directly with customers located in a motor vehicle. Such a facility is usually an accessory to a principal use and may also be referred to as a drive-in or drive-up. Examples include drive-through windows at financial institutions and restaurants.

*“Entertainment Event, Major”* means events that are characterized by activities and structures that draw large numbers of people to specific events or shows. Activities are generally of a spectator nature. Examples include stadiums, sports arenas, auditoriums, exhibition halls, convention centers and fairgrounds. This category does not include outdoor recreation and entertainment uses, such as golf driving ranges and racetracks.

*“Auto Service, Limited”* means uses that provide direct service to motor vehicles where the driver generally waits in the car or nearby while the service is performed. Examples include full-service and self-service gas stations; free-standing carwash facilities; and quick lubrication services. This category does not include convenience store/gas stations.

*“Safety Services”* means uses that provide public safety and emergency response services. They often need to be located in or near the area where the service is provided. Employees are generally present on-site. Examples include fire stations, police stations and emergency medical and ambulance stations.

*“Community Services”* means uses of a public, nonprofit or charitable nature generally providing a local service to people of the community. Generally, they provide the service on-site or have employees at the site on a regular basis. The service is ongoing, not just for special events. The use may also provide special counseling, education or training of a public, nonprofit or charitable nature. Examples include libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, social service facilities, temporary shelters, and vocational training for persons with physical or mental disabilities.

“*Detention Facilities*” means facilities for the judicially required detention or incarceration of people. Inmates and detainees are under 24 hour supervision by sworn officers, except when on approved leave. Examples include prisons, jails, probation centers and juvenile detention homes.

“*Passenger Terminals*” includes passenger terminals for regional bus service and regional rail service.

“*Telecommunication Facilities*” means facilities which include all devices, equipment, machinery, structures or supporting elements necessary to produce non-ionizing electromagnetic radiation within the range of frequencies from 100 KHz to 300 GHz and operating as a discrete unit to produce a signal or message. Facilities may be self-supporting, guyed, or mounted on poles, light posts, power poles, buildings or other structures. This category shall also include interconnection translators, connections from over-the-air to cable, fiber optic, or other landline transmission system. Examples include broadcast towers, attached telecommunication facilities, telecommunication support towers, point-to-point microwave towers, and amateur radio facilities that are owned and operated by a federally-licensed amateur radio station operator.

SECTION 2. AMENDMENT Section 21-03-07 of the Mandan Code of Ordinances is amended and reenacted to read as follows:

21-03-07. Use Groups. In order to carry out the purposes of this title, certain uses having similar characteristics are classified together as "use groups". In any district in which a use group is permitted, it is the intent of this title to permit any particular member of that use group to be located within that district. In any district in which a use group is not listed as a permitted use, it is the intent of this title to prohibit each and every member of that use group from locating within that district. These use groups shall apply to all zoning districts except the Downtown Core and Downtown Fringe districts.

SECTION 3. Section 21-04-17 is hereby created and enacted to read as follows:

21-04-17. Downtown Districts.

1. *Districts Established.* The following downtown zoning districts are hereby established: DC Downtown Core District and DF Downtown Fringe District.

2. *Use Table.* The table contained herein lists the uses allowed within the downtown zoning districts.

a. Use Categories. All of the categories listed in the use table are explained in detail

in Section 21-03-07. The second column of the use table contains an abbreviated explanation

of the respective use category. If there is a conflict between the abbreviated explanation and the full explanation in Section 21-03-07, the provisions of Section 21-03-07 shall prevail.

b. Use Standards. An “X” in the third column of the use table indicates that the use is subject to use-specific standards. These standards are listed alphabetically in Section 21-03-07.

c. Uses Permitted By Right. A “P” indicates that a use category is allowed by right in the respective zoning district. These permitted uses are subject to all other applicable provisions of this chapter.

d. Special Uses. An “SUP” indicates that the use is allowed only if reviewed and approved as a Special Use, in accordance with the Special Use provisions in Section 21-03-10, and is subject to all other applicable regulations in this chapter.

e. Uses Not Allowed. An “---” indicates that the use is not allowed in the respective zoning district.

f. Review For Acceptance. An “R” indicates the proposed project must be reviewed by this commission and it must be similar in nature or maintain harmony to adjacent properties and must meet current CB requirements (see grid).

**Use Table.**

Proposed Use Category	Definition	Use Standards	District	
			DC	DF
<b>Residential Uses</b>				
Group Dwelling	Residential occupancy of a structure by a group of people who		P	P

Household Dwelling	do not meet the definition of household. Residential occupancy of a dwelling unit by a household (related or up to four unrelated).			
Single-family, detached	40% lot coverage; 15' front setback; 5' side setback; and 10' rear setback		R	P
Duplex/single-family attached (2)	40% lot coverage; 15' front setback; 5' side setback; and 10' rear setback		R	P
Single-family, attached (3+)	e.g. condos		P	P
Multi-family structure			P	P
Residences on 2 <sup>nd</sup> floor & above			P	P
<b>Commercial Uses</b>				
Drive-through Facilities	Drive-through facilities in conjunction with a permitted principal use.	X	SUP	SUP
Entertainment Event, Major	Activities and structures that draw large numbers of people to specific events or shows. This category does not include outdoor recreation and entertainment uses, such as golf driving ranges and racetracks.		P	---
Office Group	Activities conducted in an office setting and generally focusing on business, government, professional, medical or financial services.		P	P
Parking, Accessory	Parking that is an accessory to a specific use, but not located on the same parcel as the use – use standards for accessory parking that is adjacent to a residential use.	X	SUP	SUP
Parking, Commercial	Parking that is not an accessory to a specific use – fees may or may not be charged.	X	P	SUP
Retail Sales and Services Retail Group A Service Group A Service Group B Auto Sales Groups are modified by description of this item and other	Establishments involved in the sale, lease or rental of any new or used products to the general public – they may also provide personal services or entertainment or provide product repair or services for consumer and business goods –	X	P	P

items in this table. Group descriptions are found in Chapter 21-03-07 of the Mandan Municipal Code.	use standards for convenience store/gas stations, mortuaries/funeral homes and vehicle sales lots. This category does not include self-service storage uses, adult entertainment centers, animal hospitals or kennels, or off-premise advertising signs.			
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Proposed Use Category	Definition	Use Standards	District	
			DC	DF
<b>Commercial Uses</b>				
Auto Repair Garage	Service to passenger vehicles, light trucks and other consumer motor vehicles – generally, the customer does not wait at the site while the service or repair is being performed.	X	SUP	P
Auto Service, Limited	Direct services to motor vehicles where the driver generally waits in the car or nearby while the service is performed.	X	SUP	P
<b>Institutional Uses</b>				
Colleges	Colleges and institutions of higher learning.		P	P
Community Services	Public, non-profit or charitable uses, generally providing a local service to the community.	X	P	P
Day Care	Care, protection and supervision for children and adults on a regular basis away from their primary residence for less than 24 hours/day.	X	SUP	P
Health Care Facilities	Medical or surgical care to patients, with overnight care.		P	P
Parks and Open Areas	Natural areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, etc.		P	P
Religious Institutions	Meeting area for religious activities	X	P	P
Safety Services	Public safety and emergency response services.		P	P
Schools	Schools at the primary, elementary, middle, junior high or	X	---	P

	high school level.			
<b>Other Uses</b>				
Detention Facilities	Government-operated facilities for the detention or incarceration of people.	X	P	---
Moving of buildings/structures	Moving in of a building or structure that has been previously occupied in another location.	X	---	SUP
Passenger Terminals	Passenger terminals for regional bus and rail service.	X	P	P
Telecommunications Facilities	Devices and supporting elements necessary to provide telecommunication services.		SUP	SUP
Utilities and Essential Services	Infrastructure services that need to be located in or near the area where the service is provided.		P	P

SECTION 4. Section 21-04-17.1 of the Mandan Code of Ordinances is hereby created and enacted to read as follows:

21-04-17.1 DC Downtown Core District.

1. *Purpose.* The purpose of the Downtown Core District is to preserve and enhance the mixed-use, pedestrian-oriented nature of the City’s downtown area. The district allows a wide range of mutually supportive uses in order to enhance downtown Mandan’s role as a commercial, cultural, governmental, health/ medical, entertainment, education, and residential center. The district standards also facilitate the creation of a strong and distinctive sense of place through the inclusion of open space and public plazas. The use of design standards will maintain the historical integrity, enhance the quality of design, and preserve the human-scale development of downtown.

The following described property shall be included in the Downtown Core District:

In Mandan Proper Subdivision:

All of Blocks 1-14 & 18-22; Lots 5-12, Block 23; Lots 1-6, Block 36; Lots 7-12, Block 35.

2. *Uses.* Uses are allowed in the Downtown Core District in accordance with the Use Table of Section 21-04-17.

3. *Dimensional Standards.* Development within the Downtown Core District is subject to the following dimensional standards:

a. *Lot Area.* The minimum lot area is 2,500 square feet unless lot is recorded to have less than 2,500 square feet prior to adoption of this ordinance.

- b. *Lot Width.* The minimum lot width is 20 feet.
  - c. *Lot Depth.* There is no lot depth requirement.
  - d. *Front Yard Setback.* There is no minimum front yard setback. If the development site is between two existing buildings, which are both setback from the front property line, the front yard setback may not exceed the average setback of the adjoining buildings. In no case shall a setback greater than 15 feet be allowed, and this area must be landscaped and/or incorporate streetscape elements.
  - e. *Side Yard Setback.* There is no minimum side yard setback, unless the side property line abuts residentially zoned property, in which case the minimum side yard setback shall be 6 feet.
  - f. *Rear Yard Setback.* The minimum rear yard setback is 10 feet. Provided that where the rear of a lot adjoins an alley, no rear yard shall be required for a principal nonresidential building.
  - g. *Height.* The maximum height is 130 feet, unless a special use permit to exceed this height is granted in accordance with the provisions of Section 21-06-03. The minimum height is two stories or 20 feet.
  - h. *Lot Coverage.* The maximum lot coverage is 100%.
4. *Design Standards.* All development within the Downtown Core District is subject to the following design standards:
- a. *Intent.* The intent of the design standards is to create and maintain a high visual quality and appearance for the Downtown Core District. The regulations are also intended to stimulate and protect investment through the establishment of high standards with respect to materials, details, and appearance.
  - b. *Review and Approval.* Compliance with these design standards shall be carried out in conjunction with the City's site plan review procedures. An administrative decision by the Mandan Architectural Review Committee regarding the design standards may be appealed to the City Commission and will be subject to the Commission's standard public hearing procedures.
  - c. *Building Materials.* All walls visible from the street shall be primarily faced with brick, stone, architectural or pre-cast concrete, EFIS, stucco, or an equivalent or better. The use of plain surface concrete or block shall be prohibited (i.e. the surface must be dimensional). Non-transparent glass shall be prohibited from covering more than 40 percent of the exterior

walls.

All subsequent renovations, additions and related structures constructed after the construction of an original building shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

In order to maintain a sense of harmony within the area, the colors and materials used should generally be compatible with or complementary to those used for buildings on adjoining parcels.

- d. *Height.* The height of a new mid-block building shall be within one story/15 feet of any adjacent building. If a proposed mid-block development is between two existing buildings that vary more than three stories in height, the new building shall be within one story/15 feet in height of either the taller or shorter building. The height of a new corner building may be higher than buildings on adjacent parcels, but should generally be within the average height of the buildings occupying the three adjacent corners of the intersection. It is not the intent of this provision to regulate the height of a building that occupies one-quarter of a block or more as it relates to adjacent or adjoining buildings.
- e. *Alignment.* New infill development in the Downtown District shall maintain the continuity of setback and alignment of adjoining facades at the property line.
- f. *Width.* New buildings shall reflect the existing characteristic rhythm of facades along the street. New construction, including parking ramps that require two or more lots, should respect this pattern by designing the pattern of adjacent façade widths into the new facade.
- g. *Horizontal Rhythms.* New development shall maintain the alignment of building windows, cornices, and rooflines that dominate the block on which it will be constructed. Character and scale shall be compatible with surrounding structures through the use of materials, detailing and window placement. A clear visual division between the street level and upper floors shall also be maintained. Canopies and awnings consistent with the architectural style of the building are strongly encouraged to accentuate the street level relationship between the building and streetscape and to provide protection of pedestrians.
- h. *Entrances.* A main entrance to the building shall face and be clearly visible from the street and define the entry point.
- i. *Historic Preservation.* Rehabilitation of existing historically significant

buildings shall be in accordance with the Secretary of the Interior's Standards for Rehabilitation to the greatest degree practicable.

- j. *Display Windows.* The original size and shape of display windows on existing buildings shall be preserved. For non-residential buildings, a minimum of 50% of first floor facades fronting the street shall be windows, doors and other transparent elements.
  - k. *Rooftop Equipment.* Rooftop equipment shall be screened from ground level views with parapet walls or enclosures similar in form, material and detail to the primary structure.
  - l. *Vacant Buildings.* Vacant and abandoned buildings shall be made to appear inhabited. Boarding up windows in vacant or abandoned buildings shall be prohibited; window coverings shall be aesthetically pleasing.
  - m. *Demolition and Vacant Lots.* Any demolition shall be in accordance with the provisions of Section 14-11 of the City Code of Ordinances. Any lots left vacant after demolition shall be treated to control fugitive dust. If the lot is to remain vacant for more than 180 days, said lot shall be landscaped. The lot shall be maintained and kept free of debris and litter.
  - n. *Exposed Common Walls.* If common walls are exposed due to demolition of adjoining buildings, the walls shall be treated to ensure that the walls do not become a visual eyesore. The treatment may be temporary or permanent depending on the potential for redevelopment of adjoining parcels. Temporary alternative treatments need to be approved by the Mandan Architectural Review Commission. Permanent alternative treatments include architectural treatment that is similar to the front façade of the building or stucco. The wall treatment shall be in place within 90 days of the date of demolition, unless a longer period is authorized at the time of approval of the demolition plans, and shall be the financial responsibility of the owner of the property upon which the demolished building was located.
  - o. *Work in Public Right-of-Way.* Any work within the public right-of-way must be approved by the Mandan Architectural Review Commission and shall be in accordance with any City guidelines and shall comply with the standards established by the City Engineer.
5. *Off-street Parking and Loading.* Off-street parking and loading shall be provided in accordance with the provisions of Section 21-03-10. Off-street parking shall not be required for properties within the Downtown Parking District (Section 21-03-10.6).
6. *Landscaping and Screening.* Landscaping and Screening shall meet the approval of and guidelines set forth by the Mandan Architectural Review Commission.

Development within the Downtown Core District, including the development of parking areas, shall be subject to the requirements of Section 21-03-10. If decorative fencing or any other streetscape elements are used, they shall be consistent with or complementary to the designated downtown streetscape elements.

7. *Signage.* All signage in the Downtown Core District shall be installed and maintained in accordance with the City policy. Canopies used for signage shall be consistent with the architectural style of the building.

SECTION 5. A new section 21-04-17.2 to the Mandan Code of Ordinances is hereby created and enacted to read as follows:

21-04-17.2 DF Downtown Fringe District.

1. *Purpose.* The purpose of the Downtown Fringe District is to strengthen and complement the City's downtown area by allowing uses not normally allowed in the Downtown Core District. The Downtown Fringe District also serves to provide a transitional area between the Downtown Core District and adjacent commercial and residential zoning districts. The uses allowed in this district usually require larger parcels and a greater emphasis on automobile access and parking

The following described property shall be included in the Downtown Fringe District:

In Mandan Proper Subdivision:

All of Blocks 15-16, 24-34, 37-58; Lots 1-3 & 10-12, Block 17; Lots 1-4, Block 23; Lots 1-6, Block 35; Lots 7-12, Block 36

All of Alber's Neff 1<sup>st</sup>

All of Collin's Court

In Meads Subdivision:

All of Blocks 1 & 8-11; Lots 1-12 of Blocks 7 & 12; Lots 1-3, & 13, Block 15

In Alber's Neff 2<sup>nd</sup>:

Lot 1, Block 1; Lots 10-12, Block 4

In Northern Pacific 1<sup>st</sup>:

All of Blocks 59-74 & 81; Lots 4-9, Blocks 76-79 & 82; Lots 4-12, Block 80; Lots 7-9, Block 83

In Don's Subdivision:

Lots 1-3 & 8, Block 3

All of Helmsworth-McLean 2<sup>nd</sup>

In Helmsworth McLean 1<sup>st</sup>:

All of Blocks 1-23; Lots 7-18, Blocks 24-29; Lots 7-12, Block 30

All of Koch Commercial Park

All lands between 10<sup>th</sup> Ave West and the Railroad overpass east of Mandan Avenue bounded on the north by Main street and bounded on the south by the BNSF railroad trackage.

All lands bounded on the west by Mandan Avenue, bounded on the east by BNSF railroad trackage between 3<sup>rd</sup> Street NE and Main Street.

2. *Uses.* Uses are allowed in the Downtown Fringe District in accordance with the Use Table of Section 21-04-17.

3. *Dimensional Standards.* Each single-family, two-family, multifamily, or group dwelling hereafter erected shall comply with all regulations governing such uses in an RM residential district as provided under Section 21-04-03. Non-dwelling development within the Downtown Fringe District is subject to the following dimensional standards:

- a. *Lot Area.* The minimum lot area is 2,500 square feet unless lot is recorded to have less than 2,500 square feet prior to adoption of this ordinance.
- b. *Lot Width.* The minimum lot width is 25 feet.
- c. *Lot Depth.* There is no lot depth requirement.
- d. *Front Yard Setback.* There is no minimum front yard setback, unless the property is immediately adjacent to a residentially zoned property, in which case the minimum front yard setback shall be 15 feet. In no case shall a setback greater than 25 feet be allowed, and this area must be landscaped and/or incorporate streetscape elements.
- e. *Side Yard Setback.* There is no minimum side yard setback, unless the property is immediately adjacent to a residentially zoned property, in which case the minimum side yard setback shall be 5 feet.
- f. *Rear Yard Setback.* There is no minimum rear yard setback, unless the property is immediately adjacent to a residentially zoned property, in which case the minimum rear yard setback shall be 10 feet.
- g. *Height.* The maximum height is 75 feet, unless the property is immediately adjacent to a residentially zoned property, in which case the maximum height is 50 feet.
- h. *Lot Coverage.* The maximum lot coverage is 100%, unless the property is immediately adjacent to a residentially zoned parcel, in which case the maximum lot coverage shall be 70%.

4. *Design Standards.* All development within the Downtown Fringe District is subject to the following design standards:

- a. *Intent.* The intent of the design standards is to create and maintain a high visual quality and appearance for the Downtown Fringe District. The regulations are also intended to stimulate and protect investment through the establishment of high standards with respect to materials, details, and appearance.
- b. *Review and Approval.* Compliance with these design standards shall be carried out in conjunction with the City's site plan review procedures. An administrative decision by the Architectural Review Committee regarding the design standards may be appealed to the City Commission and will be subject to the Commission's standard public hearing procedures.
- c. *Building Materials.* For non-residential and multi-family residential buildings containing more than 8 units, all walls visible from the street shall be primarily faced with brick, stone, architectural or pre-cast concrete, EFIS, stucco, or an equivalent or better. The use of plain surface concrete or block shall be prohibited (i.e. the surface must be dimensional). Non-transparent glass shall be prohibited from covering more than 40 percent of the exterior walls.

For residential buildings containing 8 or fewer units, traditional residential building materials may be used.

All subsequent additions and related structures constructed after the construction of an original building shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

In order to maintain a sense of harmony within the area, the colors, materials and architectural elements used should generally be compatible with or complementary to those used for buildings on adjoining parcels.

- d. *Height.* The height of a new building should be within one-story/15 feet of any buildings on adjacent parcels. It is not the intent of this provision to regulate the height of a building that occupies one-quarter of a block or more as it related to buildings on adjacent parcels.
- e. *Alignment.* The setbacks and alignment of a new building should be similar to any buildings on adjoining parcels.
- f. *Entrances.* A main entrance to the building shall face and be clearly visible from the street and define the entry point.

- g. *Historic Preservation.* Rehabilitation of existing historically significant buildings shall be in accordance with the Secretary of the Interior's Standards for Rehabilitation to the greatest degree practicable.
  - h. *Rooftop Equipment.* Rooftop equipment shall be screened from ground level views with parapet walls or enclosures similar in form, material and detail to the primary structure.
  - i. *Vacant Buildings.* Vacant and abandoned buildings shall be made to appear inhabited. Boarding up windows in vacant or abandoned buildings shall be prohibited; window coverings shall be aesthetically pleasing.
  - j. *Demolition and Vacant Lots.* Any demolition shall be in accordance with the provisions of Section 14-11 of the City Code of Ordinances. Any lots left vacant after demolition shall be treated to ensure to control fugitive dust. If the lot is to remain vacant for more than 180 days, said lot shall be landscaped. The lot shall be maintained and kept free of debris and litter.
  - k. *Exposed Common Walls.* If common walls are exposed due to demolition of adjoining buildings, the walls shall be treated to ensure that the walls do not become a visual eyesore. The treatment may be temporary or permanent depending on the potential for redevelopment of adjoining parcels. Temporary alternative treatments must be approved by the Architectural Review Committee. Permanent alternative treatments include architectural treatment that is similar to the front façade of the building or stucco. The wall treatment shall be in place within 90 days of the date of demolition, unless a longer period is authorized at the time of approval of the demolition plans, and shall be the financial responsibility of the owner of the property upon which the demolished building was located.
  - l. *Work in Public Right-of-Way.* Any work within the public right-of-way must be approved by the Mandan Architectural Review Commission and shall be in accordance with any City guidelines and shall comply with the standards established by the City Engineer.
5. *Off-street Parking and Loading.* Off-street parking and loading shall be provided in accordance with the provisions of Section 21-03-10. Off-street parking shall not be required for properties within the Downtown Parking District (Section 21-03-10.6).
6. *Landscaping and Screening.* Landscaping and Screening shall meet the approval of and guidelines set forth by the Mandan Architectural Review Commission. Development within the Downtown Core District, including the development of parking areas, shall be subject to the requirements of Section 21-03-10. If decorative fencing or any other streetscape elements are used, they shall be consistent with or complementary to the designated downtown streetscape elements.

7. *Signage.* All signage in the Downtown Fringe District shall be installed and maintained in accordance with City policy. Canopies used for signage shall be consistent with the architectural style of the building.

SECTION 6. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 7. EFFECTIVE DATE. The provisions of this ordinance shall be in full force and effect from and after the date of publication of a notice of adoption.

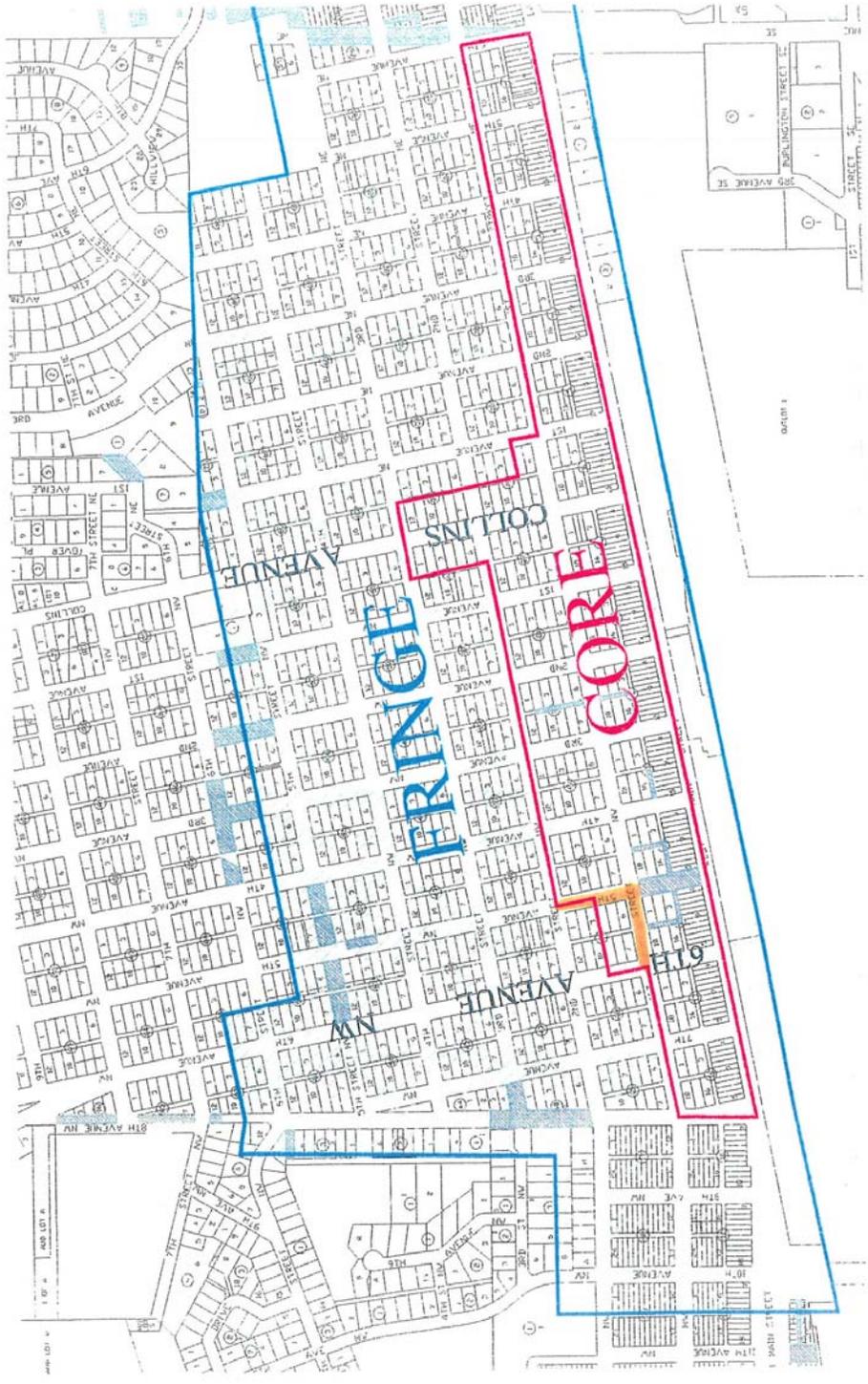
Dated this 19th day of April, 2011

\_\_\_\_\_  
President, Board of City Commissioners

ATTEST:

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City Administrator

First Reading:	<u>April 5, 2011</u>
Second Reading:	<u>April 19, 2011</u>
Final Passage:	<u>April 19, 2011</u>
Date of Publication:	<u>May 13, 2011</u>



**ORDINANCE NO. 1092**

**An ordinance to amend and reenact sections 7-01-01 and 7-01-07 of the Mandan Code of Ordinances, relating to adoption of a Uniform Fire Code and amendments to the International Fire Code and to provide an effective date.**

**BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF MANDAN, NORTH DAKOTA AS FOLLOWS:**

**SECTION 1. AMENDMENT.** Section 7-01-01 of the Mandan Code of Ordinances is hereby amended and reenacted to read as follows:

**Section 7-01-01      Adoption of code.**

That a certain document, at least one copy of which is on file in the office of the city administrator of the City of Mandan, being marked and designated as the *International Fire Code*, including Appendix Chapters B and D ~~C, D, and E~~, as published by the International Code Council, be and is hereby adopted as the code of the City of Mandan for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City and providing for the issuance of permits for hazardous uses or operations; and each and all of the regulations, provisions, conditions and terms of such *International Fire Code, 2000 edition*, published by the International Code Council, on file in the offices of the city administrator and fire chief are hereby referred to, adopted and made a part hereof as if fully set out in this chapter. The International Fire Code as adopted and amended by the board of city commissioners of the city and the provisions of Chapters 7-01, 7-02 and 7-03 shall be known as the Fire Prevention Code

**SECTION 2. AMENDMENT.** Section 7-01-07 of the Mandan Code of Ordinances is hereby amended and reenacted to read as follows:

**Section 7-01-07      Amendments to International Fire Code.**

The ~~2000~~ 2009 edition of the International Fire Code adopted by the provisions of this chapter and all subsequent editions adopted by resolution of the board are amended, changed and altered as follows:

~~1. — 307.1 Bonfires and Outdoor Open Burning and Rubbish Fires Prohibited —~~  
**Variances.** No person may kindle, maintain or assist in maintaining any bonfire, open burning or rubbish fires within the city limits of the city. Rubbish includes trees, grass, leaves, vegetation, other combustible materials and waste material from the construction or demolition of buildings. The board may grant a variance to this prohibition provided special circumstances exist which necessitate open burning and the person conducting the burning conforms to any requirements set by the fire chief or his designee, which may include the posting of an appropriate bond. Any person violating the provisions of this section is guilty of a Class B misdemeanor.

~~2. **307.5 Open flame devices.** Charcoal burners and other open flame cooking, heating or decorative devices shall not be operated on combustible balconies or decks or within 10 feet (3048 mm) of combustible construction.~~

~~3. **307.5.1 Liquefied petroleum gas fueled cooking devices.** LP gas burners having a LP gas container with a water capacity greater than a nominal 20 pounds (9 kg) LP gas capacity shall not be located on combustible balconies or decks or within 10 feet (3048 mm) of combustible construction.~~

~~4. **503.2 Specifications.** Fire apparatus access roads shall be installed and arranged in accordance with Sections 503.2.1 through 503.2.7. When installation or arrangement of fire apparatus access roads is impractical or unwarranted, temporary or permanent fire lanes may be designated as the need arises in accordance with Section 503.2.8. If a permanent fire lane is intended, appropriate signs and striping must be installed to provide appropriate notice of the designation.~~

1. Chapter 1. Administration.

Section 101.1 Title. These regulations shall be known as the City of Mandan Fire Prevention Code, hereafter referred to as "this code."

Section 105.6.32 Open flames and candles. An operational permit is required to use open flames or candles in connection with assembly areas, dining areas or restaurants or drinking establishments. Churches shall not be required to obtain a permit to utilize candles in religious ceremonies.

2. Chapter 3. Requirements.

Section 307.1 General, A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with this section. Any person violating the provisions of this section is guilty of a class B misdemeanor.

Section 308.1.4 Exception: 3 LP-gas cooking devices having LP-gas container with a water capacity not greater than 20 pounds.

3. Chapter 4 Emergency Planning and Preparedness

Section 403.3 Crowd Managers Delete section

4. Chapter 9. Fire Protection Systems

Section 903.2.7 Group M delete condition number 4.

5. Appendix B. Fire-Flow Requirements for Buildings adopt in its entirety.

6. Appendix D. Fire Apparatus Access Roads adopt in its entirety.

**7. 3301.1.3 Fireworks.** The possession, manufacture, storage, sale, handling and use of fireworks are prohibited within the city limits.

**Exceptions:**

1. Storage and handling of fireworks as permitted in Section 3304 shall not qualify as an exception to the prohibition of storage and handling of fireworks within the city limits.

2. Manufacture, assembly and testing of fireworks as permitted in Section 3305 shall not qualify as an exception to the prohibition of manufacture, assembly and testing of fireworks within the city limits.
3. The use of fireworks for display as permitted in Section 3308, is an exception to the prohibition of use of fireworks in the city, provided the requirements of sections 3301.2.3 and 3301.2.4 are met. The possession, use, discharge, or explosion of fireworks, as defined by § 23-15-01, N.D.C.C., not including bottle rockets, is permitted between the hours of 12:00 p.m. and 12:00 a.m. on July 2 and 3, and from the hours of 12:00 p.m. on July 4 to 2:00 a.m. on July 5 of each year.

**Penalty:**

1. Any person who violates the provisions of this section shall, upon conviction, be guilty of an ordinance violation, punishable by a fine of Seventy-five Dollars (\$75.00).
  2. Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 20-20 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.
8. **Section 105.6.39 relating to required operational permits for repair garages and service stations is deleted.**
  9. **Additional Permits.** Notwithstanding any other provision of the International Fire Code, or state building code, permits shall be obtained from the fire chief prior to engaging in the following activities, operations, practices or functions:
    - a. Storage of anhydrous ammonia;
    - b. Storage and use of explosives or blasting agents;
    - c. Storage of flammable or combustible liquids above or below ground for containers of one thousand gallons or more capacity; and
    - d. Storage of liquid petroleum gases.
  10. **Other Prohibited or Regulated Activities.** Notwithstanding any other provision of the International Fire Code, or state building code, the following activities are prohibited or further regulated:
    - a. No Class I liquid storage tanks of more than ten gallons are permitted in any residential district.
    - b. No new bulk storage plants for the purpose of storage and distribution of flammable, combustible or hazardous materials in a liquid, gaseous or solid state shall be permitted within the city except in the zoning districts and within the described areas set forth in Chapter 7-04 of the Mandan

Code of Ordinances, as amended. A special use permit approved by the board is required prior to any construction or operation of said plants and the construction and operation shall be in conformance with the following requirements:

- (1) All provisions of the fire prevention code shall be met.
- (2) The plant shall not be adjacent to any waterways or drainage ways.
- (3) Copies of appropriate certificates of siting from the EPA or state department of health shall be furnished by the applicant for the special use permit.
- (4) The plant shall be located at least four hundred feet from any residential area.
- (5) The plant shall be located within eight hundred feet of a dependable water supply for fire suppression purposes.

**SECTION 3. EFFECTIVE DATE.** Upon publication of the title and penalty of this ordinance the provisions of the ordinance shall be in full force and effect.

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President, Board of City Commissioners

Attest:

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City Administrator

First Reading: April 5, 2011  
Amended: April 19, 2011  
Second Reading: April 19, 2011  
Date of Publication: May 13, 2011

# Proposed Amendments and Significant Changes 2009 in 2009 International Fire Code

## Chapter 2 – Definitions

*Section 202-* Group B Ambulatory Health Care Facilities, all facilities which provide medical care to four or more patients using sedation or anesthesia leaving a patient unable to self-rescue on a less than 24 hour basis shall provide a fire sprinkler system.

Buildings or facilities impacted by change: No existing buildings or facilities known to be adversely affected. This definition has been added to distinguish between fire sprinkler requirements.

## Chapters 3 - General Safety Requirements

*Section 304.3.2* – Waste collection or soiled linen containers with a capacity of 40 gallons or more shall be provided with lids, and be constructed of noncombustible materials or combustible materials with a peak rate of heat release not exceeding allowable limits as set forth in the code.

Possible buildings or facilities impacted by change: Ridge Motel, Seven Seas Inn, Mandan Public School district. This provision restricts utility carts to fewer than 40 gallons for the purpose of maintaining proper fire sprinkler coverage.

*Section 315.3.1* – Combustible material shall not be stored underneath canopies, eaves or projections where an automatic sprinkler system protects the interior of the building, but not the canopy, eaves, or projections. Combustible materials may be stored under such structures if the proper sprinkler coverage is provided.

Buildings or facilities impacted by change: No existing buildings or facilities known to be adversely affected. This provision clarifies that storage of combustible commodities is prohibited beneath canopies and similar projections in buildings protected by an automatic sprinkler system unless the sprinkler system is extended into those areas.

## Chapter 4 – Emergency Planning

*Section 403.3* – Trained crowd managers shall be provided for facilities or events where more than 1,000 people congregate. Crowd managers shall be provide at a ratio of one crowd manager to every 250 persons in the crowd. The code official is authorized to modify the ratio of crowd managers per occupant if he or she deems necessary.

**Recommend to delete section 403.3 from code**

*Section 404.3.3* -- Facilities that have a lockdown plan shall be in accordance with Section 404.3.3.1.

Buildings or facilities impacted by change: Mandan Public School District stated that this change will not adversely affect current lockdown operations. This provision ensures that public education buildings maintain and practice a lockdown plan.

## Chapter 5 – Fire Service Features

*Section 505.1* – When building address cannot be viewed from the public way, a monument, pole, or other approved sign or means shall be used to identify the structure.

Buildings or facilities impacted by change: No existing buildings or facilities known to be adversely affected. This minor addition requires a monument sign, pole, or other approved sign where access is by means of a private road and the building address cannot be viewed from the public way.

*Section 510* -- This provision allows the code official to require an in-building amplification system to be installed in order to provide adequate radio coverage where radio coverage is compromised due to building construction.

Buildings or facilities impacted by change: No existing buildings or facilities known to be adversely affected. This provision allows for the requirement of sufficient radio communication coverage in new buildings and places any associated costs with the building owner.

#### Chapter 6 – **Building Services**

*Section 603.3.1* – Fuel oil storage in outside, above-ground tanks

Buildings or facilities impacted by change: No existing buildings or facilities known to be adversely affected. This provision allows for more storage of fuel oil when a fire sprinkler system is present.

*Section 603.4.2*-- Portable unvented heaters shall not be stored or used inside any occupancy when connected to the fuel gas container. This provision also prohibits the use of portable heaters inside tents, canopies, membrane structures, or on balconies.

Buildings or facilities impacted by change: Any public assembly wishing to use portable heaters under a canopy or roof. This provision prohibits the use of portable unvented heating appliances inside buildings, tents, canopies, and membrane structures. It also provides for regulation on storage of fuels and other safe guard requirements.

*Section 609.3* – Commercial cooking exhaust system cleaning frequencies shall be established based on the amount of cooking performed and the nature of the cooking being performed.

Buildings or facilities impacted by change: No existing buildings or facilities known to be adversely affected. This provision clarifies cleaning frequency of commercial cooking systems based on the volume of cooking operations.

#### Chapter 9 – **Fire Protection Systems**

*Section 903.2.7* – An automatic sprinkler system shall be provided throughout buildings containing a group M occupancy where one of the following conditions exists:

4. A group M occupancy is used for the display and sale of upholstered furniture.

This provision would require any mercantile building, regardless of size or occupancy that sells or displays upholstered furniture to sprinkler the entire building.

**Recommended to delete number 4 of section 903.2.7**

*Section 903.3.1.2.1* – Exterior balconies, wooden decks, and ground floor patios serving buildings of combustible construction require automatic sprinkler protection in accordance with Section 903.3.1.2.

Buildings or facilities impacted by change: No buildings or facilities known to be adversely affected. This provision clarifies that automatic sprinkler protection is required when there is a combustible balcony or deck above the dwelling unit of a multi-family building.

*Section 903.6.2* – Automatic sprinkler protection is retroactively required in all Group I-2 occupancies.

Buildings or facilities impacted by change: No existing buildings or facilities known to be adversely affected as all facilities currently have a fire sprinkler system. This provision requires retroactive fire sprinkler installation in facilities that provide 24-hour care of more than five persons who are not capable of self- preservation.