

AGENDA
MANDAN CITY COMMISSION
JANUARY 4, 2011
ED "BOSH" FROEHLICH MEETING ROOM
5:30 P.M.
www.cityofmandan.com

- A. ROLL CALL:
1. Roll call of all City Commissioners and Department Heads.
- B. MINUTES:
1. Consider approval of the minutes from the December 21, 2010 Board of City Commission meeting.
- C. PUBLIC HEARING:
- D. BIDS:
- E. CONSENT AGENDA:
1. Consider the Service Agreement for the City of Mandan's Employee Assistance Program with Medcenter One.
2. Consider for approval Sunday openings for the Mandan Eagles for the following dates:
i. January 16, 2011
ii. February 6, 2011
iii. February 20, 2011
3. Consider the following abatements:
i. Basin Electric Power Co. – tax exemption
ii. Morty's LLC – duplicate tax statement generated
iii. Mary Kay Neibauer – reassessment
iv. Robert Schmidt – reassessment
- F. OLD BUSINESS:
1. Discussion regarding hands free use of electronic devices.
- G. NEW BUSINESS:
1. Discussion regarding potential noise ordinance
2. Consider adoption of Leadership Code for Elected Officials policy
- H. RESOLUTIONS & ORDINANCES:
1. *Consider second and final reading of Ordinance No. 1088 Zone Change for Lakewood 6th Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map.*
2. *Consider second and final reading of Ordinance No. 1089 Zone Change for Auditor Lot 2 of Lot E – An ordinance to amend and*



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reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map.

I. OTHER BUSINESS:

J. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. January 18, 2011 (5 p.m. start)
2. February 1, 2011
3. February 15, 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.

The Mandan City Commission met in regular session at 5:30 p.m. on December 21, 2010 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Tibke, Rohr, Frank, and Jackson. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development Director Huber, Engineering Project Manager Bechtel, and City Assessor Barta.

MINUTES: *Consider approval of the minutes for December 7, 2010, Regular Meeting and December 8, 2010 Special Meeting Working Session- meetings of the Board of City Commissioners.* Commissioner Frank moved to approve the minutes as presented. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

BIDS:

CONSENT AGENDA:

1. *Consider approval of monthly bills.* The Board approved of the monthly bills as presented.
2. *Consider the re-appointment of Rick Zander and appointment of Mr. Jerome Gangl as new member to the Mandan Architectural Review Commission (MARC).* The Board approved of the re-appointment of Rick Zander and the appointment of Mr. Jerome Gangl as a new member to the Mandan Architectural Review Commission (MARC).
3. *Consider approval of amendment to the Mandan Police Department 2011 Budget (Equipment Reserve Account.)* The Board approved of the amendment to the Mandan Police Department 2011 Budget (Equipment Reserve Account.)
4. *Consider approval of Lakewood 6th Addition Zone Change. (First reading of Ordinance 1088.)* The Board approved of the Lakewood 6th Addition Zone Change. (First reading of Ordinance 1088.)
5. *Consider approval of Auditor Lot 2 of Lot E of Section 29, Township 139, Range 81 Zone Change. (First reading of Ordinance 1089).* The Board approved of the Auditor Lot 2 of Lot E of Section 29, Township 139, Range 81 Zone Change. (First reading of Ordinance 1089).
6. *Consider the following abatements: (i) Mike & Kari Hatzenbuhler – Re-assessment; (ii) Durick-Hill – New Construction; (iii) Segovia – New Construction.* The Board approved of the abatements as presented.
7. *Consider change order relating to time/contract amount on the one million gallon reservoir demolition for Southside pump station.* The Board approved of the change order relating to time/contract amount on the one million gallon reservoir demolition for Southside pump station.

Commissioner Rohr moved to approve the Consent Agenda as presented. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

OLD BUSINESS:

NEW BUSINESS:

~~1. — Consider Growth Fund Committee recommendations for Storefront Improvement application at 114 E Main — Jim Sullivan.~~ This item was removed from the Agenda.

2. Consider Growth Fund Committee recommendation for 2011 Storefront Improvement Application funding and rounds. Business Development Director Huber presented a request on behalf of the MGF for 2011 Storefront Improvement Application funding and rounds. A total of \$87,896 was available in 2010. Of that \$87,896 the amount of \$50,000 for projects had been approved for storefront applications. However, \$20,000 has since been “returned” to the fund, thus leaving a balance of \$57,896 to roll over into 2011. The MGF Committee unanimously voted to roll over any unspent or unallocated Storefront Improvement Program funds from 2010 to 2011 and to establish application rounds for 2011 with deadlines of February 1, May 2, August 1 and November 1.

Commissioner Frank moved to approve the MGF Committee’s recommendations to roll over any unspent or unallocated Storefront Improvement Program funds from 2010 to 2011 and to establish application rounds for 2011 with application deadlines in 2011 of February 1, May 2, August 1 and November 1. Commissioner Rohr seconded the motion.

Commissioner Jackson inquired of Mr. Welch what would happen to the funds if they were not rolled over. Finance Director Welch replied that the funds would stay within the MGF however they would not be allocated to Storefront Improvement Project. The funds could then possibly be used for economic grants or loans. Commissioner Frank encouraged anyone who may be interested in improving their current business storefront or opening a new business in Mandan to consider applying for this program. Roll call vote: Commissioner Rohr: Yes, Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Frank: Yes; Mayor Helbling: Yes. The motion carried.

~~3. — Consider Renaissance Zone Committee recommendation on application by Perry and Bonnie Schlosser for new construction at 604 First Street NW.~~ This item was removed from the Agenda.

4. Bismarck-Mandan Development Association activity update. The 3rd and final report for 2010 was presented with a summary of what has transpired since the inception of the project:

- Project planning began in 2008 and was implemented in 2009
- Annual updates have been provided by BMDA
- Mandan City officials and BMDA have worked together on the project
- Results have been presented on a regular basis to the Board of Commissioners
- Work Plan entailed five different areas:
 - Communication between the City and BMDA
 - Development sites were identified

-
- A Business Program and Marketing Program was presented
 - Business Retention and Expansion plans were presented
 - The Mandan Tomorrow Plan was unfolded

In summary, the 2011 work plan is currently being developed. The full 2010 report will be provided in March 2011. There is a pending legislative action to get the Community Tax Credit in place and there is work in progress to create an investment pool. Within Bismarck-Mandan, all the retail and service sectors are finding the workforce to meet their needs despite the nation-wide unemployment problem. Examples were provided of how BMDA has been instrumental in assisting businesses to expand over the last three years. There is a lot of opportunity for retail in the Bismarck-Mandan communities that include the following areas: one located along I-94; one along Bismarck Expressway; and one by the Water Park – in which one could develop a 30 acre type of development. There are ample smaller type spaces that are available today that can be re-done and redeveloped for the businesses. There are 9 or 10 franchises-entrepreneur's that are looking to invest (such as restaurants; hardware stores etc.). These projects require the cooperation of both the BMDA and Development Office to make these things happen in order to enhance the effectiveness of the success of the projects.

RESOLUTIONS & ORDINANCES:

1. *Consider first reading of Ordinance No. 1088 Zone Change for Lakewood 6th Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map.* Commissioner Jackson moved to approve the first reading of Ordinance No. 1088 Zone Change for Lakewood 6th Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

2. *Consider first reading of Ordinance No. 1089 Zone Change for Auditor Lot 2 of Lot E – An ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map.* Commissioner Jackson moved to approve the first reading of Ordinance No. 1089 Zone Change for Auditor Lot 2 of Lot E – An ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

3. *Consider Resolution Authorizing Issuance of \$109,611.18 Street Improvement District No. 160 Definitive Improvement Warrant.* Commissioner Jackson moved to approve the Resolution Authorizing Issuance of \$109,611.18 Street Improvement District No. 160 Definitive Improvement Warrant. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes, Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Frank: Yes; Mayor Helbling: Yes. The motion carried. (A copy of the resolution is on file open for public inspection during regular working hours in the Office of the City Administrator.)

4. *Consider Resolution Authorizing Issuance of \$159,187.42 Sidewalk, Curb and Gutter Warrant of 2010.* Commissioner Frank moved to approve the Resolution Authorizing Issuance of \$159,187.42 Sidewalk, Curb and Gutter Warrant of 2010. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes, Commissioner Tibke: Yes; Commissioner Jackson: Yes; Commissioner Frank: Yes; Mayor Helbling: Yes. The motion carried. *(A copy of the resolution is on file open for public inspection during regular working hours in the Office of the City Administrator.)*

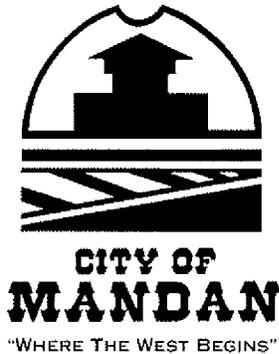
OTHER BUSINESS:

1. Mayor Helbling reminded everyone that the Mandan Progress Organization has “Mandan Bucks” available in order to encourage the community to shop in Mandan during the holiday season.

There being no further actions to come before the Board, the meeting adjourned at 6:08 p.m.

James Neubauer,
City Administrator

Timothy A. Helbling,
President, Board of City
Commissioners



Board of City Commissioners

Agenda Documentation

MEETING DATE: January 4, 2011
PREPARATION DATE: December 29, 2010
SUBMITTING DEPARTMENT: Human Resources
DEPARTMENT DIRECTOR:
PRESENTER:
SUBJECT: Service Agreement for the City of Mandan's Employee Assistance Program with Medcenter One.

PURPOSE

Consider the Service Agreement for the City of Mandan's Employee Assistance Program with Medcenter One.

BACKGROUND

The City provides employees with an Employee Assistance Program (EAP) which services are provided by Medcenter One. Employees, their spouses, and dependent children through personal contact may address a variety of issues with the Program Administrator. The number of allotted, free sessions per circumstance is delegated in the Service Agreement. Departments Heads and Supervisors may recommend employees to the EAP if an incident becomes unresolved and job related.

Medcenter One has provided these services to the City for many years.

ATTACHMENT

Service Agreement (January 1, 2011 to December 31, 2011)

FISCAL IMPACT

\$23.00 per employee/per year or approximately \$3,150 annually. This is a budgeted item.

STAFF IMPACT

None

Board of City Commissioners

Agenda Documentation

Meeting Date: January 4, 2011

Subject: Service Agreement for the City of Mandan's Employee Assistance Program with Medcenter One.

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LEGAL REVIEW

Sent to Malcolm Brown, City Attorney.

RECOMMENDATION

To approve the Service Agreement for the City of Mandan's Employee Assistance Program with Medcenter One.

SUGGESTED MOTION

Move to approve the Service Agreement for the City of Mandan's Employee Assistance Program with Medcenter One.



Medcenter One

medcenterone.com

November 11, 2010

City of Mandan
Attn: Kevin Wilson
205 2nd Ave NW
Mandan, ND 58554

Dear Kevin,

Enclosed you will find a new contract for Medcenter One's Employee Assistance Program for the upcoming contract year.

Thank you for continuing as a Medcenter One Employee Assistance Program supported business. This new contract will be effective from January 1, 2011 to December 31, 2011 and will cover all of your employees, their spouses and dependant children at a rate of \$23.00 per employee/per year.

After reviewing the enclosed contract, please sign it and return the entire contract in the envelope provided. Please feel free to contact me with any questions or concerns you might have.

We appreciate your business and look forward to a continued great working relationship.

Sincerely,

Tammy Bulman
EAP Coordinator

Enclosures



Medcenter One

medcenterone.com

SERVICE AGREEMENT FOR THE CITY OF MANDAN

Medcenter One Mental Health Center will provide an **Employee Assistance Program (EAP)** to

- All eligible employees (eligible employee will be defined by the CITY OF MANDAN) and family members (spouse, and dependent children) of the **CITY OF MANDAN**. NOTE: An eligible employee who is terminated and or resigns will have continued eligibility for 90 calendar days past the last date of employment.
- The EAP will assist the employees and family members with personal, social, emotional or other problems in living that may be disruptive to their life or job performance.
- The EAP at Medcenter One is comprised of clinical face to face, confidential counseling for issues such as; marital/relationship/family concerns; physical, mental or emotional illnesses, workplace stress, finances, legal problems and substance abuse evaluation. The employees/family members will meet with the EAP providers at their offices by appointment.
- The Medcenter One Employee Assistance Program has a statewide provider network.
- Medcenter One will provide **up to eight (8) one hour sessions per person, per issue, per year through its provider network**. These sessions are free of charge to the employees and eligible family members. All attempts will be made to resolve the problem within the allowed sessions.
- If necessary the EAP shall make best efforts to refer the employee/family member if their identifying problems require resources outside the Medcenter One provider network. If the employee/family member requires more than eight sessions to resolve the problem the EAP shall work to refer to appropriate services and also help explore alternate payment options. After completion of the eligible sessions the EAP shall not be accountable for payment of referral services. The employee shall be held liable for the cost of the additional services.
- Medcenter One EAP will be available for the purpose of consultation with supervisors and managers of the CITY OF MANDAN. The consultation may occur by phone or by appointment. The purpose of these consultations would be to allow the supervisor or manager an opportunity to discuss with a professional the difficulty that he/she may be experiencing with one of his/her employees and how best to utilize the EAP in resolving the challenges. Management consultation is provided on an as needed basis with no additional charges to the CITY OF MANDAN.
- Medcenter One EAP will provide **employee orientation** to all eligible employees of the CITY OF MANDAN informing them of the EAP, the range of services and how to utilize those services. Orientation sessions can be scheduled with the EAP coordinator once per contract year. One session can be scheduled for every 100 employees. The

sessions will not exceed 1 hour and will be provided in a group setting on the same day. Employees hired during the contract year will be oriented to the EAP by the CITY OF MANDAN. Medcenter One will provide orientation materials for all eligible employees.

- **On Site educational presentations** can be arranged through the Medcenter One EAP office. Two one-hour sessions can be provided to eligible employees and family members and/or supervisors throughout the course of a contract year. The presentations will be considered a part of the EAP at no cost. There will be a charge for mileage at IRS approved rates. Additional sessions (over 2) may be scheduled at a charge of \$150 per session plus mileage.
- CITY OF MANDAN will identify an EAP Contact Person within its organization to serve as the primary liaison person between the CITY OF MANDAN and Medcenter One EAP.
- The **24/7 crisis line** is available for eligible individuals of the CITY OF MANDAN for those times when they need to talk to a professional immediately. The crisis line is accessed by calling toll-free 1-877-829-1219.
- The Employee Assistance Program permits **formal employer referral** of employees to EAP services. When supervisors and managers do a formal referral of employees to the EAP, a Supervisor Referral Form is required. All information regarding the sessions remains confidential unless the employee signs an appropriate Release of Information.
- All eligible employees and supervisors will have access to quarterly **newsletters** that will be posted on Medcenter One's EAP web page at medcenterone.com/eap
- The Medcenter One EAP will provide **utilization reports** on a quarterly basis to the CITY OF MANDAN. The utilization reports will be in a format that is easy to understand.
- One free **drug/alcohol assessment** is available to each eligible individual per calendar year.
- Referrals for one hour of free **legal consultation** per contract year may be provided to all eligible employees and family members at no cost.
- A free one on one **"Fitness Testing"** will be available to all eligible employees. This consists of a free consultation to complete a fitness assessment and gain recommendations for an exercise routine for better health. This is available on an individual basis only and available for employees only.

The CITY OF MANDAN agrees that all participation by its employees and their family members in the EAP programs is confidential. Medcenter One shall not disclose any individual employee or dependent information to the **CITY OF MANDAN** or its' representatives without the prior written consent of the employee or family member. Medcenter One will have exclusive control over the direction and guidance of the professionals rendering services under this agreement. Medcenter One agrees to keep confidential all **CITY OF MANDAN** information obtained in the course of delivering services.

1. STATUS OF EMPLOYEES: In the performance of the services to be rendered, Medcenter One shall provide its employees and agents to undertake such services. Said employees and/or agents shall always be considered to be the employees and/or agents of Medcenter One and not the contracting party to this agreement. Employees of the contracting party shall at no time or under any circumstance be considered to be an employee or agent of Medcenter One, and are not authorized to undertake or engage in any acts on behalf of Medcenter One.
2. DIRECT SERVICES TO CLIENTS: Medcenter One shall provide direct services through its provider network to the employees and family members of the contracting party. They can contact their local Medcenter One Employee Assistance Program (EAP) provider directly to arrange an appointment time that is convenient to them.
3. REPRESENTATION AS TO ADEQUATE INSURANCE COVERAGE: Each party to this contract represents and warrants to the other that it has, and shall maintain in effect, adequate liability insurance, Worker's Compensation, and other appropriate forms of insurance coverage sufficient to generally protect the respective parties to the contract and their employees in carrying out the objective to the contract.
4. CITY OF MANDAN will be responsible to **provide quarterly employee numbers and listing of employee names** to the Medcenter One EAP Coordinator for billing purposes. This can be done either by phone, fax, e-mail or mail.
5. BILLING: Medcenter One EAP will provide the above mentioned services to CITY OF MANDAN at the cost of **\$23.00 per employee/per year** and **will be billed quarterly at the beginning of each quarter** by Medcenter One.
6. TERMS OF AGREEMENT: This agreement shall be for a one year term unless either party provides written notice to the other of its intention to modify the services and be sent by regular mail. Written notice of termination shall be sent by certified mail, return receipt requested. All notices must be sent at least thirty (30) days prior to the designated modification/termination date. This 30-day provision may be waived upon mutual agreement of both parties.
7. APPLICABLE LAW: This agreement shall be governed by and construed in accordance with the laws of the State of North Dakota.
8. NOTICES: All notices required or permitted by the terms hereof and all correspondence, communications and payments pertaining to the Medcenter One Employee Assistance Program contracts shall be directed to the following address:

Medcenter One Employee Assistance Program
ATTN: EAP Coordinator
414 N 7th St
Bismarck, ND 58506-5525
(701)323-8879 / 1-800-526-8648
FAX: (701) 323-5492
E-Mail: eap@mohs.org

In witness thereof that parties have executed this agreement for the contract period of January 1, 2011 to December 31, 2011.


CITY OF MANDAN

12/28/2010
DATE

Kevin Wilson
Name of Designated EAP Contact Person

HR@CityofMandan.com
e-mail Address

205 2nd Ave NW Mandan, ND 58554
Business Billing Address

701 667-3217
Phone Number

MEDCENTER ONE MENTAL HEALTH, DIRECTOR

DATE

SUNDAY ALCOHOLIC BEVERAGE PERMIT

Date of Application: Dec. 28, 2010Name of Licensee: MANDAN Eagles - Mickie Berger - managerAddress of Licensee: 1400 Collins AveAddress of public facility if used: 1400 Collins Ave. N., MANDANState the purpose of organization: Non-profit OrganizationDate(s) of requested Sunday(s): ~~Dec 28, 2010~~, Jan. 16th 2011, Feb. 6th 2011 &
Feb. 20th 2011Time of day which the applicant desires the permit to be in effect: 9 AM to 1 AM

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: _____

Upstairs Bar Area
Feb. 20th - Hall downstairsState whether the applicant requests permission to open to the general public, and if so an explanation of the reasons for the request: Christmas parties, Dart Tournaments,Super bowl partyIf applicable, estimated number of police officers necessary to provide security at the dance to be open to the public: 0

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.



Board of City Commissioners

Agenda Documentation

MEETING DATE: January 4, 2011
PREPARATION DATE: December 27, 2010
SUBMITTING DEPARTMENT: Assessing/Bldg Inspections
DEPARTMENT DIRECTOR: Richard L Barta
PRESENTER: Richard L Barta
SUBJECT: Abatement for
Basin Electric Power Co.

STATEMENT/PURPOSE: To consider a tax exemption for Basin Electric for the year 2010.

BACKGROUND/ALTERNATIVES: According to SB2297, this property qualified to become exempt in the year 2010. Therefore, the entire structure value must be removed from the tax rolls. Please note, at Board of Equalization, the City questioned this exemption. At a later date, it was approved.

This property is also known as Lot 3, Block 1, Mandan Industrial Park 1st Addition at 2719 34 St NW on Parcel #2682.

ATTACHMENTS: Application.

FISCAL IMPACT: Approximately \$ 11,954.00 with the City losing \$2,869.00 of revenue.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Approval of the request by Basin Electric to be an exempt property for the year 2010.

SUGGESTED MOTION: I recommend a motion to approve the request by Basin Electric to be considered an exempt property according to SB2297 for the year 2010.

Application For Abatement And Settlement Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1st of the year following the year in which the tax becomes delinquent.

State of North Dakota

County of Morton

Name BASIN ELECTRIC POWER CO.

Address 2719 34 ST NW

Legal Description of the property involved in this application

Lot: 0003

Block: 001

MANDAN IND PARK 1ST

Property ID Number

City 2682

County 65-2192000

Total true and full value of the property described above for the year 2010 is:

Land \$319,700
 Improvements \$584,400
 Total (1) \$904,100

Total true and full value of the property described above for the year 2010 should be:

Land \$319,700
 Improvements \$0
 Total (2) \$319,700

The difference of \$584,400 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation (Attach a copy of Application for Property Tax Exemption)
- 6. Duplicate assessment
- 7. Property improvement was damaged by fire, flood or tornado (see N.D.C.C. § 57-23-04(1)(g))
- 8. Error in noting payment of taxes, taxes erroneously paid
- 9. Property qualifies for Homestead Credit According to N.D.C.C. § 57-02-08.1 (Attach a copy of Homestead Credit Application)
- 10. Other (Explain) Property became exempt in the year 2010 according to SB2297.

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go to question #5.

1. Purchase price of property: \$ _____ Date of Purchase: _____
 Terms: Cash _____ Contract _____ Trade _____ Other (explain) _____
 Was there personal property involved in the purchase price? _____ Estimated value: \$ _____

2. Has the property been offered for sale on the open market? _____ If yes, how long? _____
 Asking price: \$ _____ Terms of sale: _____

3. The property was independently appraised: _____ Purpose of appraisal: _____
 Market value estimate: \$ _____
 Appraisal was made by whom? _____

4. The applicant's estimate of market value of the property involved in this application is \$ _____

5. The estimated agricultural productive value of this property is excessive because of the following condition(s): _____

The Applicant asks that _____

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection. See N.D.C.C. § 57-23-05.1.

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a government matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) _____

Date _____

Don Boehm for Basin Electric

Signature of Applicant _____

12/20/10

Date _____



Board of City Commissioners

Agenda Documentation

MEETING DATE: January 4, 2011
PREPARATION DATE: December 27, 2010
SUBMITTING DEPARTMENT: Assessing/Bldg Inspections
DEPARTMENT DIRECTOR: Richard L Barta
PRESENTER: Richard L Barta
SUBJECT: Abatement for Morty's LLC

STATEMENT/PURPOSE: To consider an abatement for the year 2010 on a duplicate file at the County level.

BACKGROUND/ALTERNATIVES: This property was platted and this original piece was not deleted at the County level. Therefore a duplicate tax statement was generated.

This property is also known as a portion of land in the SE1/4 of Section 34, Township 139, Range 81 or Parcel #2927-A.

ATTACHMENTS: Application.

FISCAL IMPACT: Approximately \$442.00 with the City losing \$106 revenue.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Approval of the request to abate a duplicate file at the County level.

SUGGESTED MOTION: I recommend a motion to approve the abatement request for Morty's LLC to abate a duplicate file for the year 2010.

Application For Abatement And Settlement Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1st of the year following the year in which the tax becomes delinquent.

State of North Dakota

County of Morton

Property ID Number

Name MORTY'S LLC

City 2927 A

Address 2927A

County 65-5784200

Legal Description of the property involved in this application
 PORTION OF LAND IN THE SE1/4

Block: 34

MANDAN LANDS 139-81

Total true and full value of the property described above for the year 2009 is:

Land	\$21,600
Improvements	\$0
Total (1)	\$21,600

Total true and full value of the property described above for the year 2009 should be:

Land	\$0
Improvements	\$0
Total (2)	\$0

The difference of \$21,600 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation (Attach a copy of Application for Property Tax Exemption)
- 6. Duplicate assessment
- 7. Property improvement was damaged by fire, flood or tornado (see N.D.C.C. § 57-23-04(1)(g))
- 8. Error in noting payment of taxes, taxes erroneously paid
- 9. Property qualifies for Homestead Credit According to N.D.C.C. § 57-02-08.1 (Attach a copy of Homestead Credit Application)
- 10. Other (Explain) Duplicate Tax Statement Generated.

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go to question #5.

1. Purchase price of property: \$ _____ Date of Purchase: _____
 Terms: Cash _____ Contract _____ Trade _____ Other (explain) _____
 Was there personal property involved in the purchase price? _____ Estimated value: \$ _____
2. Has the property been offered for sale on the open market? _____ If yes, how long? _____
 Asking price: \$ _____ Terms of sale: _____
3. The property was independently appraised: _____ Purpose of appraisal: _____
 _____ Market value estimate: \$ _____
 Appraisal was made by whom? _____
4. The applicant's estimate of market value of the property involved in this application is \$ _____
5. The estimated agricultural productive value of this property is excessive because of the following condition(s): _____

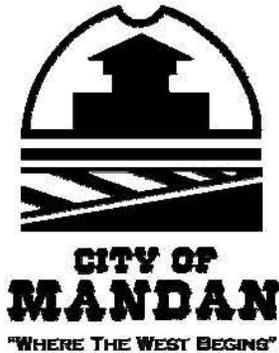
The Applicant asks that _____

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection. See N.D.C.C. § 57-23-05.1.

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a government matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) _____ Date _____

Signature of Applicant Wende Sun Date 12-20-10



Board of City Commissioners

Agenda Documentation

MEETING DATE: January 4, 2011
PREPARATION DATE: December 27, 2010
SUBMITTING DEPARTMENT: Assessing/Bldg Inspections
DEPARTMENT DIRECTOR: Richard L Barta
PRESENTER: Richard L Barta
SUBJECT: Abatement for
Mary Kay Neibauer

STATEMENT/PURPOSE: To consider reducing the value for the year 2010 from \$113,300 to \$76,800 due to a data error.

BACKGROUND/ALTERNATIVES: The value on this property rose dramatically for the year 2010. Ms. Neibauer then requested a re-assessment be completed. After correcting the data, a lower value was determined.

ATTACHMENTS: Application.

FISCAL IMPACT: Approximately \$672.00 with the City losing \$161.00 of revenue.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Approval of the request by Ms. Neibauer to reduce her 2010 value from \$113,300 to \$76,800 due to a data error.

SUGGESTED MOTION: I recommend a motion to approve the request by Ms. Neibauer to reduce her 2010 value from \$113,300 to \$76,800 due to a data error.

Application For Abatement And Settlement Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1st of the year following the year in which the tax becomes delinquent.

State of North Dakota

County of Morton

Name NEIBAUER MARY KAY

Address 209 2 AVE NE

Legal Description of the property involved in this application

Lot: 0002

Block: 024

MANDAN PROPER (OT)

Property ID Number

City 3438

County 65-2512000

Total true and full value of the property described above for the year 2010 is:

Land	\$21,800
Improvements	\$91,500
Total (1)	\$113,300

Total true and full value of the property described above for the year 2010 should be:

Land	\$21,800
Improvements	55,000
Total (2)	76,800

The difference of 36,500 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation (Attach a copy of Application for Property Tax Exemption)
- 6. Duplicate assessment
- 7. Property improvement was damaged by fire, flood or tornado (see N.D.C.C. § 57-23-04(1)(g))
- 8. Error in noting payment of taxes, taxes erroneously paid
- 9. Property qualifies for Homestead Credit According to N.D.C.C. § 57-02-08.1 (Attach a copy of Homestead Credit Application)
- 10. Other (Explain) Re-Assessment

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go to question #5.

1. Purchase price of property: \$ _____ Date of Purchase: _____
 Terms: Cash _____ Contract _____ Trade _____ Other (explain) _____
 Was there personal property involved in the purchase price? _____ Estimated value: \$ _____
2. Has the property been offered for sale on the open market? _____ If yes, how long? _____
 Asking price: \$ _____ Terms of sale: _____
3. The property was independently appraised: _____ Purpose of appraisal: _____
 _____ Market value estimate: \$ _____
 Appraisal was made by whom? _____
4. The applicant's estimate of market value of the property involved in this application is \$ _____
5. The estimated agricultural productive value of this property is excessive because of the following condition(s): _____

The Applicant asks that _____

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection. See N.D.C.C. § 57-23-05.1.

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a government matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) _____ Date _____

Signature of Applicant Mary Kay Neibauer

Date 12-00-10



Board of City Commissioners

Agenda Documentation

MEETING DATE: January 4, 2011
PREPARATION DATE: December 27, 2010
SUBMITTING DEPARTMENT: Assessing/Bldg Inspections
DEPARTMENT DIRECTOR: Richard L Barta
PRESENTER: Richard L Barta
SUBJECT: Abatement for Robert Schmidt

STATEMENT/PURPOSE: To consider an abatement to reduce the 2010 true and full value from \$57,900 to \$18,000, to match the 2009 value. This property value was reduced last year due to the condition of the property. Also, about mid-year in 2010, this home was demolished.

BACKGROUND/ALTERNATIVES: This property was walked through in the year 2009 and the value was lowered at that time. This lower value should have followed through into the 2010 year and did not.

This property is also known as Lots 25 & 26, Block 7, Northern Pacific 2nd Addition at 207 6 Ave SW on Parcel #4893.

ATTACHMENTS: Application.

FISCAL IMPACT: Approximately \$735.00 with the City losing \$176.00 of revenue.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Approval of the request by Mr. Schmidt to lower the structure value for the year 2010.

SUGGESTED MOTION: I recommend a motion to approve the value reduction for Mr. Schmidt due to the condition of the property for the year 2010 and also for the reason that the 2009 value should have followed through to the 2010 year.

Application For Abatement And Settlement Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1st of the year following the year in which the tax becomes delinquent.

State of North Dakota

County of Morton

Property ID Number

Name SCHMIDT ROBERT P

City 4893

Address 207 6 AVE SW

County 65-3695000

Legal Description of the property involved in this application
 LOTS 25 & 26

Block: 7
 N.P. 2ND

Total true and full value of the property described above for the year 2010 is:		Total true and full value of the property described above for the year 2010 should be:	
Land	\$11,800	Land	\$11,800
Improvements	\$46,100	Improvements	\$6,200
Total (1)	\$57,900	Total (2)	\$18,000

The difference of \$39,900 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation (Attach a copy of Application for Property Tax Exemption)
- 6. Duplicate assessment
- 7. Property improvement was damaged by fire, flood or tornado (see N.D.C.C. § 57-23-04(1)(g))
- 8. Error in noting payment of taxes, taxes erroneously paid
- 9. Property qualifies for Homestead Credit According to N.D.C.C. § 57-02-08.1 (Attach a copy of Homestead Credit Application)
- 10. Other (Explain) Structure was re-valued for 2009 and the new value should follow through for the year 2010.

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go to question #5.

1. Purchase price of property: \$ _____ Date of Purchase: _____
 Terms: Cash _____ Contract _____ Trade _____ Other (explain) _____
 Was there personal property involved in the purchase price? _____ Estimated value: \$ _____

2. Has the property been offered for sale on the open market? _____ If yes, how long? _____
 Asking price: \$ _____ Terms of sale: _____

3. The property was independently appraised: _____ Purpose of appraisal: _____
 Market value estimate: \$ _____
 Appraisal was made by whom? _____

4. The applicant's estimate of market value of the property involved in this application is \$ _____

5. The estimated agricultural productive value of this property is excessive because of the following condition(s): _____

The Applicant asks that _____

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection.
 See N.D.C.C. § 57-23-05.1.

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a government matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) _____ Date _____

Signature of Applicant _____ Date _____

Robert J. Schmidt 12/23/10

RESOLUTION

WHEREAS, The City of Mandan is the owner of real property located at 609 West Main Street, Mandan, ND, formerly known as the "BN Freight House" having acquired title to the same in 2004; and

WHEREAS, the major user of said property is the Morton Mandan Public Library; and

WHEREAS, the Morton Mandan Public Library operates said facility including renting to various other tenants.

NOW, THEREFORE, BE IT RESOLVED that the City of Mandan delegate the operation and leasing of the property at 609 West Main Street, Mandan, ND, to the Morton Mandan Public Library, including leasing of space within said property, collecting of rents, and payment of operating expenses of said property.

Dated this ____ day of January, 2011.

Timothy Helbling, President of the Board
of City Commissioners

Attest:

James Neubauer, City Administrator

RESOLUTION

WHEREAS, Section 57-02-08 of the North Dakota Century Code, provides for the exemption of up to seventy-five thousand dollars of the true and full value of all new single-family residential property, exclusive of the land on which it is situated, from taxation for the two taxable years subsequent to the taxable year in which construction is begun if all of certain enumerated conditions are met; and

WHEREAS, the exemption is to be implemented by resolution of the Board of City Commissioners; and

WHEREAS, the Board of City Commissioners of the City of Mandan, North Dakota deems it to be in the best interests of the city to implement the authority granted in order to provide incentive for the payment of special assessments and for the construction of new dwelling units.

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Mandan that up to seventy-five thousand dollars of the true and full value of all new single-family residential property, exclusive of the land on which it is situated, shall be exempt from taxation for the two taxable years subsequent to the taxable year in which construction has begun if the following conditions are met:

- a) Special assessments and taxes on the property upon which the residence is situated are not delinquent.
- b) The first owner after the builder resides on the property or the builder still owns the property.

BE IT FURTHER RESOLVED, that up to seventy-five thousand dollars of the true and full value of each unit of all new condominium and townhouse residential property, exclusive of the land on which it is situated, shall be exempt from taxation for the two taxable years subsequent to the taxable year in which construction is begun if the following conditions are met:

- a) Special assessments and taxes on the property upon which the condominium or townhouse is situated are not delinquent.
- b) The first owner, after the builder, who resides in the condominium or townhouse unit still owns the property.

BE IT FURTHER RESOLVED that this resolution shall be effective for taxable years beginning after January 1, 2011, for property upon which construction is begun after January 1, 2011.

Dated this 4th day of January, 2011.

Timothy A. Helbling, President
Board of City Commissioners

ATTEST:

Jim Neubauer, City Administrator



**CITY OF
MANDAN**

"WHERE THE WEST BEGINS"

MEETING DATE:	January 4, 2011
PREPARATION DATE:	December 29, 2010
SUBMITTING DEPARTMENT:	Administration
DEPARTMENT DIRECTOR:	Jim Neubauer, City Administrator
PRESENTER:	Commissioner Tibke
SUBJECT:	Use of electronic communications devices while operating a motor vehicle

Old Business No. 1

Board of City Commissioners

Agenda Documentation

STATEMENT/PURPOSE: To discuss the use of electronic communications devices while operating a motor vehicle.

BACKGROUND/ALTERNATIVES: The subject of texting/hands free operation of electronic communications devices while driving has been discussed at two separate commission meetings. The last discussion was to take the topic to the Morton Burleigh Bismarck Mandan (MBBM) Committee for their consideration. The topic was tossed back to each of the respective entities for their separate consideration.

A few questions that require Commission discussion:

- 1) Does the Commission want to enact an ordinance prior to statewide legislative action?
- 2) If yes, what are the parameters of such an ordinance? Prohibit only texting? Prohibit the use of all electronic communications devices, etc...
- 3) If no, is the wish of the Commission that staff lobbies in support of a statewide legislative action? If yes, what are our parameters?
- 4) Do nothing.

ATTACHMENTS:

- Klemin Proposed Legislative Bill
- Billings MT, Use of electronic communications devices while operating a motor vehicle
- Mandan Municipal Code § 20-05-02 – Care required in operating vehicle.

FISCAL IMPACT:

STAFF IMPACT:

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

From: Klemin, Lawrence R. [<mailto:lklemin@nd.gov>]
Sent: Sat 12/11/2010 3:01 PM
To: Dot Frank; Sandy Tibke
Cc: leann.eckroth@bismarcktribune.com
Subject: ND Legislature - Texting Bill

Commissioners Frank and Tibke:

I read with interest the article in the Bismarck Tribune on Dec. 10 about a meeting of the Morton Burleigh Bismarck Mandan Opportunity Development Committee on Dec. 14 to discuss a uniform texting ban law. I was the sponsor of a bill (HB 1208) in the ND Legislature in 2009 that would have prohibited driving while texting, but it failed to pass. You may be interested in the minutes of the House Transportation Committee on HB 1208, which are attached. There was no opposition to the bill at the hearing, but the House Transportation Committee recommended "do not pass". I also sponsored a bill in 2007 that would have prohibited all cell phone use while driving, except for hands free operation, but that also failed. I limited my bill in 2009 to texting because that seemed to be a more serious distraction than normal cell phone use, especially among younger drivers.

Attached is the bill I plan to introduce in the 2011 Session to prohibit driving while texting. I hope that you might consider supporting this bill as a uniform bill for North Dakota. It is based on the existing law in Minnesota, but has been revised to be consistent with a bill that the NDDOT is planning to introduce to comply with federal CDL requirements relating to penalties for violating texting laws. It makes a few other changes. The penalties are different than MN (which allows for fines up to \$300 per violation) but the ND penalties are subject to change as determined by the Legislature. This bill was drafted with the assistance of Keith Witt, Bismarck Chief of Police.

I would ask that you urge your local legislators to support this bill, especially Rep. Kelsch, who serves on the House Transportation Committee. Rep. Kelsch has opposed this bill in the past, but I am hoping that she might reconsider her position.

When I introduced this bill in 2009, there were only 7 states that had similar bills. Now there are 30 states, with an additional 7 states prohibiting texting by novice drivers only. More information on this can be found at the website of the Governors Highway Safety Association at http://www.ghsa.org/html/stateinfo/laws/cellphone_laws.html

I wish I could attend the meeting on Dec. 14, but I will be out of town next week. If you would like to discuss this issue with me further, please let me know.

Larry

Rep. Lawrence R. Klemin
District 47 Bismarck
www.klemin.com

Introduced by

Representative Klemin

1 A BILL for an Act to create and enact two new paragraphs to subdivision a of subsection 3 of
2 section 39-06.1-10 and a new section to chapter 39-08 of the North Dakota Century Code,
3 relating to the use of a wireless communications device and demerit points; to amend and
4 reenact subsection 2 of section 39-06.1-06 and section 39-06.1-09 of the North Dakota Century
5 Code, relating to fees for a moving violation; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Subsection 2 of section 39-06.1-06 of the North Dakota
8 Century Code is amended and reenacted as follows:

- 9 2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except
10 for:
- 11 a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, 39-10-42, 39-10-46, or
12 39-10-46.1, a fee of fifty dollars.
 - 13 b. A violation of section 39-10-05 involving failure to yield to a pedestrian or
14 subsection 1 of section 39-10-28, a fee of fifty dollars.
 - 15 c. A violation of section 39-21-41.2, a fee of twenty-five dollars.
 - 16 d. A violation of subsection 1 of section 39-12-02 or section 4 of this Act, a fee of
17 one hundred dollars.
 - 18 e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one
19 hundred dollars.

20 **SECTION 2. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **39-06.1-09. Moving violation defined.**

23 For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a
24 violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01,

1 39-06-14, 39-06-16, section 4 of this Act, 39-09-04.1, or 39-09-09, subsection 1 of section
2 39-12-02, sections 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-24-02, or 39-24-09, except
3 subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of
4 chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except subsection 5 of section
5 39-10-26, sections 39-21-44 and 39-21-45.1, subsections 2 and 3 of section 39-21-46, and
6 those sections within those chapters which are specifically listed in subsection 1 of section
7 39-06.1-08.

8 **SECTION 3.** Two new paragraphs to subdivision a of subsection 3 of section 39-06.1-10 of
9 the North Dakota Century Code are created and enacted as follows:

10 Using a wireless 2 points
11 communications device
12 in violation of section 4
13 of this Act

14 For a second offense 4 points
15 or subsequent offense
16 using a wireless
17 communications device in
18 violation of section 4
19 of this Act

20 **SECTION 4.** A new section to chapter 39-08 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Use of a wireless communications device prohibited.**

23 1. The operator of a motor vehicle that is part of traffic may not use a wireless
24 communications device to compose, read, or send an electronic message.

25 2. Under this section:

26 a. "Electronic message" means a self-contained piece of digital communication that
27 is designed or intended to be transmitted between physical devices. The term
28 includes e-mail, a text message, an instant message, a command or request to
29 access a world wide web page, or other data that uses a commonly recognized
30 electronic communications protocol. The term does not include:

- 1 (1) Reading, selecting, or entering a telephone number, an extension number,
2 or voice mail retrieval codes and commands into an electronic device for the
3 purpose of initiating or receiving a telephone or cellular phone call or using
4 voice commands to initiate or receive a telephone or cellular phone call;
5 (2) Inputting, selecting, or reading information on a global positioning system
6 device or other navigation system device;
7 (3) Using a device capable of performing multiple functions, such as fleet
8 management systems, dispatching devices, smart phones, citizen band
9 radios, music players, or similar devices, for a purpose that is not otherwise
10 prohibited;
11 (4) Voice or other data transmitted as a result of making a telephone or cellular
12 phone call; or
13 (5) Data transmitted automatically by a wireless communication device without
14 direct initiation by an individual.
15 b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of
16 travel on any street or highway and includes a temporary stop or halt of motion,
17 such as at an official traffic-control signal or sign. The term does not include a
18 motor vehicle that is lawfully parked.
19 3. This section does not apply if a wireless communications device is used for obtaining
20 emergency assistance to report a traffic accident, medical emergency, or serious traffic
21 hazard or to prevent a crime about to be committed, in the reasonable belief that an
22 individual's life or safety is in immediate danger, or in an authorized emergency vehicle
23 while in the performance of official duties.
24 4. In addition to any other fee or action against a license, for a third or subsequent
25 violation of this section the department shall suspend the license of the operator for a
26 period of three hundred sixty-five days.



MONTANA SHRUGGED, TEA PARTY PATRIOTS

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Article 24-300 OPERATION OF VEHICLES, titled "DIVISION 5.

http://agenda.ci.billings.mt.us/docs/2010/CC/20100809_26/629_Cell%20Phone%20Ordinance%20%206-30-2010%20Final%20Edits.doc

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING A NEW DIVISION TO ARTICLE 24-300 OPERATION OF VEHICLES, TITLED "DIVISION 5. USE OF ELECTRONIC COMMUNICATIONS DEVICES WHILE OPERATING A MOTOR VEHICLE", AND ADDING NEW SECTIONS TO BE NUMBERED 24-360, 24-361.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That the Billings, Montana City Code be amended by adding a new division to Article 24-300 OPERATION OF VEHICLES, titled "DIVISION 5. USE OF ELECTRONIC COMMUNICATIONS DEVICES WHILE OPERATING A MOTOR VEHICLE", and by adding new sections to be numbered 24-360 and 24-361.

Article 24-300 OPERATION OF VEHICLES
DIVISION 5. USE OF ELECTRONIC COMMUNICATIONS DEVICES WHILE OPERATING A MOTOR VEHICLE

Sec. 24-360. Electronic Communications Device Usage While Driving Prohibited

(a) No person shall use or have in their immediate physical possession a hand held electronic communications device while operating a motor vehicle, motorcycle, quadricycle, or a bicycle on a public highway within the city limits of Billings.
(b) "Hand held electronic communications device" includes wireless or cellular phones, PDAs, Blackberries, smart phones, laptop and notebook computers utilizing VOIP (voice over internet protocol) technology, wireless and cellular phones utilizing push-to-talk technology, GPS systems, navigational systems, and any other mobile communication device that uses short-wave analog or digital radio transmissions between the device and a transmitter to permit wireless communications to and from the user of the device.

(c) "Immediate physical possession" means touching the hand held electronic communications device, or physically holding the device in one's hand or up to one's ear. Simply having the electronic communications device on one's person or in a motor vehicle does not constitute immediate physical possession.

(d) Exceptions.

(1) This provision shall not apply to any person reporting a health, fire, safety, or police emergency.

(2) This provision shall not apply to governmental fire agencies, ambulance services, law enforcement agencies, or any other "Authorized Emergency Vehicle" as defined in Montana Code Annotated Sec. 61-8-102(2)(a).

(3) This provision shall not apply to passengers in a motor vehicle, or persons using a hand held electronic communications device while maintaining a motor vehicle in a stationary position, not in gear, while in a parking lane or space out of moving traffic lanes.

(4) This provision shall not apply to persons using a "hands free device". A "hands free device" is an external device that connects to a wireless telephone, wireless communications device or electronic communications device that allows use of the device without touching the telephone or wireless or

electronic communications device, and includes voice-activated technologies that can be utilized without touching the device. Use of a hands free device is permitted while operating a motor vehicle provided the driver does not touch the wireless telephone or wireless or electronic communications device while operating a motor vehicle.

(5) This provision shall not apply to drivers using two way radios while in the performance and scope of their work-related duties.

(6) This provision shall not apply to drivers holding a valid amateur radio operator license issued by the Federal Communications Commission and using a two way radio.

Sec. 24-361. Penalty.

Persons found to have committed a violation of this division shall be subject to civil penalties as specified in Section 18-1304.

Section 2. EFFECTIVE DATE. This ordinance shall be effective October 31, 2010.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this __ day of _____, 2010.

PASSED, ADOPTED and APPROVED on second reading this __ day of _____, 2010.
CITY OF BILLINGS

By _____
Thomas W. Hanel, Mayor

ATTEST:
By _____
Cari Martin, City Clerk

[>Back To Important Legislation Main Page](#)

Section 20-04-10 Lane-direction-control signals.

The provisions of NDCC § 39-10-07.1 and all subsequent amendments must be incorporated by reference in this chapter.

When lane-direction-control signals are placed over the individual lanes of a street or highway, vehicular traffic may travel in any lane over which a green signal is shown, but may not enter or travel in any lane over which a red signal is shown.

Source: Amended during 1994 codification; Ord. 789 § 1-3 (part), (1991); Ord. 658 § 1 (part), (1982); MCC § 9-01-01 (part) (1979)

Chapter 20-05 SPEED REGULATIONS, CARE REQUIRED AND CARELESS DRIVING

Section 20-05-01 Basic rule-Careless driving.

The provisions of NDCC § 39-09-01 and all subsequent amendments must be incorporated by reference in this chapter.

No person may drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. Any person who drives a vehicle upon a highway or private or public property open to the public for the operation of motor vehicles without heed to the requirements or restrictions of this section has committed careless driving, and must be assessed a fee of thirty dollars.

Source: Amended during 1994 codification; Ord. 789 § 1-3 (part), (1991); Ord. 658 § 1 (part), (1982); MCC § 9-01-01 (part) (1979)

Section 20-05-02 Care required in operating vehicle.

The provisions of NDCC § 39-09-01.1 and all subsequent amendments must be incorporated by reference in this chapter.

Any person driving a vehicle upon a highway shall drive the vehicle in a careful and prudent manner, having due regard to the traffic, surface and width of the highway and other conditions then existing, and shall give such warnings as are reasonably necessary for safe operation under the circumstances. No person may drive any vehicle upon a highway in a manner to endanger the life, limb or property of any person. The penalty for a violation of this section is a fine of not less than ten dollars nor more than thirty dollars.

Source: Amended during 1994 codification; Ord. 789 § 1-3 (part), (1991); Ord. 658 § 1 (part), (1982); Ord. 641 § 1, (1981); MCC § 9-01-0001 (part) (1979)

Section 20-05-03 Speed limitations.

The provisions of NDCC § 39-09-02 and all subsequent amendments must be incorporated by reference in this chapter.

1. Subject to the provisions of NDCC §39-09-01 or MCC Section 20-05-01 and except in those instances where a lower speed is specified in this chapter, it presumably is lawful for the driver of a vehicle to drive the same at a speed not exceeding:

Cellphone laws

January 2011

A jurisdiction-wide ban on driving while talking on a hand-held cellphone is in place in 9 states (California, Connecticut, Delaware, Maryland, New Jersey, New York, Oregon, Utah, and Washington) and the District of Columbia. Utah has named the offense careless driving. Under the Utah law, no one commits an offense when speaking on a cellphone unless they are also committing some other moving violation other than speeding.

Local jurisdictions may or may not need specific state statutory authority to ban cellphones or text messaging. Several of the many localities that have enacted restrictions on cellphone use include: Oahu, HI; Chicago, IL; Brookline, MA; Detroit, MI; Santa Fe, NM; Brooklyn, North Olmstead, and Walton Hills, OH; Conshohocken, Lebanon, and West Conshohocken, PA; Waupaca County, WI; and Cheyenne, WY.

The use of all cellphones while driving a school bus is prohibited in 19 states and the District of Columbia.

The use of all cellphones by novice drivers is restricted in 28 states and the District of Columbia.

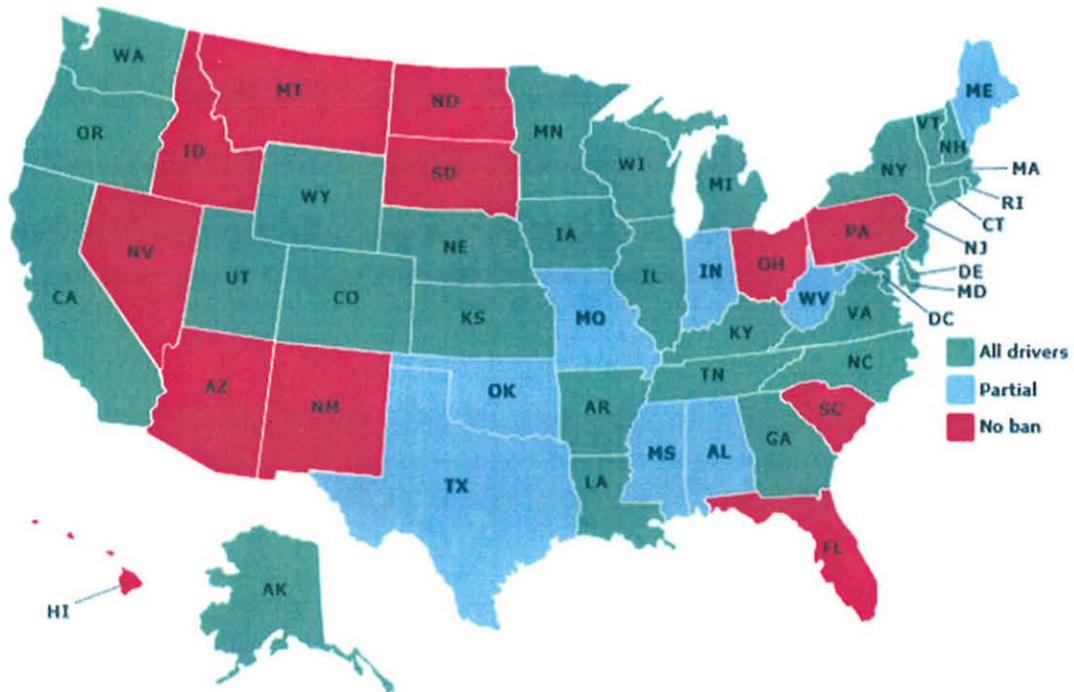
Text messaging is banned for all drivers in 30 states and the District of Columbia. In addition, novice drivers are banned from texting in 8 states (Alabama, Indiana, Maine, Mississippi, Missouri, Oklahoma, Texas, and West Virginia) and school bus drivers are banned from text messaging in 2 states (Oklahoma and Texas).

The table below shows the states that have cellphone laws, whether they specifically ban text messaging, and whether they are enforced as primary or secondary laws. Under secondary laws, an officer must have some other reason to stop a vehicle before citing a driver for using a cellphone. Laws without this restriction are called primary.

[Table](#) [Map: hand-held bans](#) [Map: young driver bans](#) [Map: bus driver bans](#) [Map: texting bans](#)

Map of texting bans

(hover over the map for more detail)





"WHERE THE WEST BEGINS"

MEETING DATE:

January 4, 2011

PREPARATION DATE:

December 29, 2010

SUBMITTING DEPARTMENT:

Administration

DEPARTMENT DIRECTOR:

Jim Neubauer, City Administrator

PRESENTER:

Mayor, Tim Helbling

SUBJECT:

Potential Noise Ordinance

New Business No. 1

Board of City Commissioners

Agenda Documentation

STATEMENT/PURPOSE: To discuss the direction the Commission would like to take regarding the noise ordinance voted on at the November 2, 2010 election.

BACKGROUND/ALTERNATIVES: The initiated measure regarding noise was voted on at the November 2, 2010 election and subsequently ruled null and void by Judge Jorgenson because "Under the circumstances, the circulators failed to provide a signed affidavit with the petitions. Because the circulators did not comply with the law, approval of the noise ordinance is null and void."

The sponsors of the initiated measure have asked that an ordinance be adopted by the commission as voted on by the citizens.

Options available to the Commission at this time are as follows:

1. Propose a first reading of an ordinance mirroring the initiated measure at the January 18th Commission meeting
2. Propose a first reading of an ordinance similar to the initiated measure at the January 18th Commission meeting. Direction on any changes to the initiated measure need to be outlined.
3. Do nothing.

ATTACHMENTS: Initiated measure as voted on.

FISCAL IMPACT:

STAFF IMPACT:

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

ORDINANCE NO. _____

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

Declaration of Purpose and Intent.

1. The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual or unnatural in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city.

2. The provisions and prohibitions of this article are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the city and its inhabitants.

Definitions. For the purpose of this chapter, certain words and phrases are defined as follows:

1. “dB(A)” means the A-weighted sound level in decibels, as measured with a sound level meter that meets the requirements for a type 1, 2, SIA, or S2A in American National Standard Specification for Sound Level Meters ANSI S1.4.

2. “Noise” means any sound.

3. “Person” means any person, partnership, association, joint venture, corporation or any other entity.

Unlawful Noise.

1. It is unlawful for any person to make any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city. Loud, unnecessary or unusual noises or noises which annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others are defined with reference to subsection 2 of this section.

2. The standards which shall be considered in determining whether a violation exists include, but are not limited to, the following:

- a. The volume of the noise.
- b. The intensity of the noise.
- c. Whether the nature of the noise is usual or unusual.
- d. Whether the origin of the noise is natural or unnatural.
- e. The volume and intensity of the background noise, if any.
- f. The proximity of the noise to residential sleeping facilities.
- g. The nature and zoning of the area within which the noise emanates.
- h. The density of inhabitation of the area within which the noise emanates.
- i. The time of the day or night the noise occurs.
- j. The duration of the noise.
- k. Whether the noise is recurrent, intermittent or constant.

3. A noise need not exceed the decibel levels in Table I be in violation of this section.

Tables; Exceptions.

1. It is unlawful to project a sound or noise excluding noise emanating from a motor vehicle from one property into another, within the boundary of a use district which exceeds the limiting noise criteria set forth in Table I below as measured at the property line of the property from which the noise is emanating.

- a. Sound or noise projecting from one use district into another use district with a different noise level limit may not exceed the limits of the district into which the noise is projected.
- b. The permissible levels in decibels set forth in Table I are modified so that any noise occurring on property deemed to be nonconforming use property is

determined upon the conforming zoning designation of the property.

TABLE I. LIMITING NOISE LEVELS FOR ZONING DISTRICTS

	Zoning District		
	Residential	Commercial	Industrial
Maximum number of dB(A) permitted from 7:00 a.m. until 11:00 p.m. daily	55	65	80
Maximum number of dB(A) permitted from 11:00 p.m. until 7:00 a.m. of the following day	50	60	75

2. Motorized vehicles. It is unlawful to operate a motorized vehicle within the city limits which creates a noise or sound which exceeds the noise level limits set out in Table II as follows:

TABLE II. LIMITING NOISE LEVELS FOR MOTOR VEHICLES

a. Trucks, buses, construction equipment, or any motor vehicle with a gross weight rating of ten thousand (10,000) pounds or more:

Maximum allowable limit: 88 dB(A) measured at 25 feet.

b. Passenger cars, pickups, vans, motorcycles, snowmobiles, or any motor vehicle with a gross weight rating less than ten thousand (10,000) pounds:

Maximum allowable limit: 80 dB(A) measured at 25 feet.

3. Exceptions. The following uses and activities are exempt from noise level regulations under this section:

- a. Noises of safety signals, warning devices, and emergency relief valves.
- b. Noises resulting from any authorized emergency vehicles, when responding

to an emergency call or acting in time of any emergency.

- c. Noises resulting from work of an emergency nature.
- d. Any construction or reasonable and necessary maintenance activities except in residentially-zoned areas between the hours of 11:00 p.m. to 7:00 a.m.
- e. Any other noise resulting from activities of a temporary duration permitted by law and for which a special permit therefore has been granted under this section by the city.
- f. Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control instruction used pursuant to and within the duly adopted federal air regulations are exempt. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations are also exempt.
- g. All railroad locomotives and railroad operations and motor carriers engaged in interstate commerce.
- h. The use of snow removal equipment, including but not limited to tractors, plows and snow blowers in the aftermath of a snowfall.
- i. The following events will be exempt:
 - a. Buggies-n-Blues Sponsored Events
 - b. 4th of July City Events
 - c. Mandan Racetrack
 - d. Mandan Shell Concerts in the Park
 - e. Use of Fireworks As Currently Set by the City of Mandan

4. Application for special permit. Application for relief from the noise level designated in this section on the basis of undue hardship may be made to the chief of police for the City of Mandan. Any permit granted by the chief of police shall contain all conditions under which the permit has been granted and shall specify a reasonable time that a permit is effective. The chief of police may grant the relief as applied upon a finding:

- a. That additional time is necessary for the applicant to alter or modify the activity or operation to comply with this section; or

- b. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with other subsections of this section; and
- c. That no other reasonable alternative is available to the applicant; and
- d. The chief of police may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.

Guests on Premises. It is unlawful for any person to permit or allow guests on his or her premises to make any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.

Noisy Party or Gathering Prohibited. No persons shall participate in any party or gathering consisting of two or more people when the party or gathering occurs in a residentially zoned or used area or building between the hours of 11:00 p.m. and 7:00 a.m. and when the party or gathering gives rise to unreasonable noise likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area, considering the time of day and the residential character of the area or building.

Order to Disperse - Refusal Prohibited. When a police officer determines that a party or other gathering of people is creating unreasonable noise, disturbing the peace, or is disturbing the quiet or repose of another person, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person ordered to leave the premises by a police officer shall refuse to do so.

Tenant or Owner - Cooperation Required. Every owner of a premises, or tenant in charge of a premises, who has knowledge of a disturbance shall cooperate with police and make reasonable effort to stop the disturbance.

Violations - Prima Facie Evidence. The following shall be prima facie evidence of a violation in any prosecutions under this Chapter:

1. As to tenants, and owner if owner resides on the premises, if twice or more on the same day or if on successive days, the police department is called upon to enforce the terms of this ordinance either by citizen complaint or by personal investigation of a police officer.

2. As to the owner if the owner does not reside at the premises, if the police department gives the owner written notices of three violations of this ordinance by his tenants at any single location within a six month period.

3. Noise of such volume as to be clearly audible at a distance of 50 feet from the structure or building in which the party or gathering is occurring or in the case of apartment buildings, in the adjacent hallway or apartment, shall be prima facie evidence of unreasonable noise in violation of this Chapter.

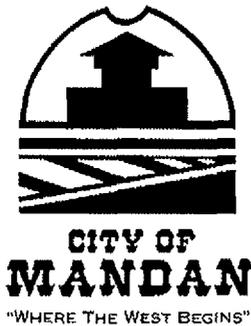
Classification; Penalty. A violation of any provision of this ordinance is an infraction, for which the maximum penalty is a fine in the amount of \$500.00.

President of City Commission

ATTEST:

City Administrator

First Reading: _____
Second Reading and Final Passage: _____
Publication Date: _____



Board of City Commissioners

Agenda Documentation

MEETING DATE: January 4, 2011
PREPARATION DATE: December 29, 2011
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Leadership Code for Elected Officials

STATEMENT/PURPOSE: To consider the adoption of the "Leadership Code for Elected Officials" as a policy.

BACKGROUND/ALTERNATIVES: This policy has been discussed at two working sessions of the City Commission. It provides protocol for public hearings, what is expected of a commissioner, interaction with city staff and the public and various other topics. It will serve as a guideline for new, incoming and prospective commissioners.

The document is reflective of similar documents adopted by the City of Wahpeton and Casselton.

ATTACHMENTS: Leadership Code for Elected Officials

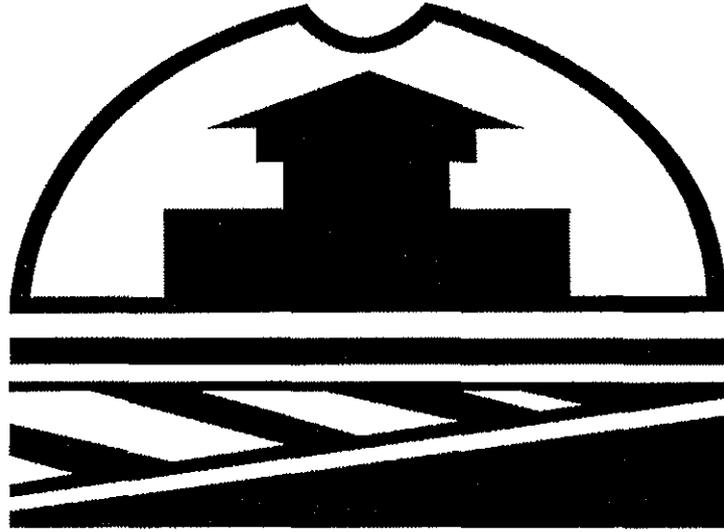
FISCAL IMPACT: n/a

STAFF IMPACT:

LEGAL REVIEW: Document has been reviewed by City Attorney Brown

RECOMMENDATION: I recommend this document be adopted by the City Commission as a policy.

SUGGESTED MOTION: I move to adopt the "Leadership Code for Elected Officials" as a policy for the City of Mandan.



**CITY OF
MANDAN**

"WHERE THE WEST BEGINS"

**Leadership Code
for Elected Officials**

Adopted by the City Commission:

"A community must work for all its citizens."

-- John Gardner

The Three R's of the City of Mandan's Government Leadership:

Roles
Responsibilities
Respect

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The constant and consistent theme through all of the Leadership Code is "respect." Commission members are confronted with difficult decisions and tremendous stress in making those decisions that may impact thousands of lives. Despite these pressures, elected officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that can help guide Commission members to do the right thing in even the most difficult situations.

Overview of Roles & Responsibilities

"Leadership is an action, not a word."

- Richard Cooley

Other resources that are helpful in defining the roles and responsibilities of elected officials can be found in the City of Mandan Charter, Ordinances or the North Dakota Century Code.

Board President (Mayor)

- The Chief Executive Officer of the City of Mandan is the Mayor. Acts as the official head of the City for all ceremonial purposes
Chairs Commission meeting
- Recognized as spokesperson for the City
- Selects substitute for City representation when Mayor cannot attend
- Makes judgment calls on proclamations, Special Orders of the Day, etc.
- Recommends subcommittees as appropriate for Commission approval
- Serves as the liaison between the Commission and the City Administrator
- Leads the Commission into an effective, cohesive working team
- Signs documents on behalf of the City
- Serves as official delegate of the City to events and conferences

Vice President

- Performs the duties of the Mayor if the Mayor is absent or
- Chairs Commission meetings at the request of the Mayor
- Represents the City at ceremonial functions at the request of the Mayor

Commissioner

All members of the City Commission, including those serving as Mayor and President of the Commission, have equal votes. No Commission member has more power than any other Commission member, and all should be treated with equal respect.

All Commission members should:

- Fully participate in City Commission meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others
- Prepare in advance of Commission meetings and be familiar with issues on the agenda
- Represent the City at ceremonial functions at the request of the Mayor
- Place activities and events on the Commission's weekly activities calendar that invite official participation of all Commission members. A list of the activities of

individual Commission members may also be submitted for public record at the option of the Commission member

- Be respectful of other people's time. Stay focused and act efficiently during public meetings
- Serve as a model of leadership and civility to the community
- Inspire public confidence in Mandan government
- Provide contact information with the City Administrator in case an emergency or urgent situation arises while the Commission member is out of town
- Demonstrate honesty and integrity in every action and statement
- Participate in scheduled activities to increase team effectiveness and review Commission procedures, such as this Leadership Code

Committee Chair

The Mayor will chair official meetings of the City Commission or another Commission member is designated as Chair of a specific meeting.

- Maintains order, decorum, and the fair and equitable treatment of all speakers
- Keeps discussion and questions focused on specific agenda item under consideration
- Makes parliamentary rulings with advice, if requested, from the City Attorney who acts as an advisory parliamentarian. Chair rulings may be overturned if a Commission member makes a motion as an individual and the majority of the Commission votes to overrule the Chair.

Policies & Protocol Related to Conduct

"Wherever there is a human being, there is an opportunity for kindness."

-- Seneca

Ceremonial Events

Requests for a City representative at ceremonial events will be handled by City staff. The Mayor will serve as the designated City representative. If the Mayor is unavailable, then City staff will determine if event organizers would like another representative from the Commission. If yes, then the Mayor will recommend which Commission member should be asked to serve as a substitute. Invitations received at City Hall are presumed to be for official City representation. Invitations addressed to Commission members at their homes are presumed to be for unofficial, personal consideration.

Correspondence Signatures

Commission members do not need to acknowledge the receipt of correspondence, or copies of correspondence, during Commission meetings. City staff will prepare official letters in response to public inquiries and concerns. These letters will carry the signature of the Mayor unless the Mayor requests that another Commission member or City staff sign them.

If correspondence is addressed only to one Commission member that Commission member should check with staff on the best way to respond to the sender.

Endorsement of Candidates

Commission members have the right to endorse candidates for all Commission seats or other elected offices. It is inappropriate to mention endorsements during Commission meetings or other official City meetings.

Non-agenda Items/Suspension of the Rules

During a designated period of the agenda, citizens, Commission members and staff may bring forth issues or questions that are not on the meeting's agenda. Topics should be legislative items requiring action by the Mayor or the Commission, study issues for future consideration, and requests for information. Each speaker, citizen or elected official, will be limited to five minutes.

In the event the non-agenda item needs action taken by the Commission, a motion to suspend the rules should be offered. The vote to suspend the rules needs unanimous approval before further action on the item may take place.

Public Announcements in Commission Meetings

Commission members who want to speak first during the Public Announcement portion of the Commission meeting should notify the Chair in advance. Otherwise, Commission members will be recognized when the Chair notices a signal. Commission members, like members of the public who use this portion of the agenda to recognize achievements or

promote an event, will be limited to three minutes each, and should keep the focus on matters of community-wide interest.

Public Meeting Hearing Protocol

The applicant or appellant shall have the right to speak first. The Chair will determine the length of time allowed for this presentation. Speakers representing either pro or con points of view will be allowed to follow. The Chair will determine how much time will be allowed for each speaker, with 3 to 5 minutes the standard time granted. The applicant or appellant will be allowed to make closing comments. The Chair has the responsibility to run an efficient public meeting and has the discretion to modify the public hearing process in order to make the meeting run smoothly.

Commission members will not express opinions during the public hearing portion of the meeting except to ask pertinent questions of the speaker or staff. "I think" and "I feel" comments by Commission members are not appropriate until after the close of the public hearing. Commission members should refrain from arguing or debating with the public during a public hearing and shall always show respect for different points of view. Main motions may be followed by amendments, followed by substitute motions. Any Commission member can call for a point of order. Only Commission members who voted on the prevailing side may make motions to reconsider. Commission members who desire to make the first motion on issues which they feel strongly about should discuss their intention with the Chair in advance of the Commission meeting.

Commission Conduct with One Another

"In life, courtesy and self-possession, and in the arts, style, are the sensible impressions of the free mind, for both arise out of a deliberate shaping of all things and from never being swept away, whatever the emotion, into confusion or dullness."

-- William Butler Yeats

Commissions are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even as Commission may "agree to disagree" on contentious issues.

IN PUBLIC MEETINGS

- **Use formal titles**

The Commission should refer to one another formally during public meetings as Mayor, President of the Commission or Commission member followed by the individual's last name.

- **Practice civility and decorum in discussions and debate**

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, Commission members to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. Shouting or physical actions that could be construed as threatening will not be tolerated.

- **Honor the role of the Chair in maintaining order**

It is the responsibility of the Chair to keep the comments of Commission members on track during public meetings. Commission members should honor efforts by the Chair to focus discussion on current agenda items. If there is disagreement about the agenda or the Chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

- **Avoid personal comments that could offend other Commission members**

If a Commission member is personally offended by the remarks of another Commission member, the offended Commission member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other Commission member to justify or apologize for the language used. The Chair will maintain control of this discussion.

- **Demonstrate effective problem-solving approaches**

Commission members have a public stage to show how individuals with disparate points

of view can find common ground and seek a compromise that benefits the community as a whole.

IN PRIVATE ENCOUNTERS

- **Continue respectful behavior in private**

The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

- **Be aware of the insecurity of written notes, voicemail messages, and e-mail**

Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable to have this note faxed to others? How would you feel if this voicemail message was played on a speakerphone in a full office? What would happen if this e-mail message was forwarded to others? Written notes, voicemail messages and e-mail should be treated as potentially "public" communication.

- **Even private conversations can have a public presence**

Elected officials are always on display – their actions, mannerisms, and people around them that they may not know monitor language. Lunch table conversations will be eavesdropped upon, parking lot debates will be watched, and casual comments between individuals before and after public meetings noted.

Commission Conduct with City Staff

"Never let a problem become an excuse."

-- Robert Schuller

Governance of a City relies on the cooperative efforts of elected officials, who set policy, and City staff, who implements and administers the Commission's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

- **Treat all staff as professionals**

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

- **Limit contact to specific City staff**

Questions of City staff and/or requests for additional background information should be directed to the City Administrator, City Attorney, or City Officers. The City Administrator should be copied on any request made to City Officers, except some that go to the City Attorney.

- **Do not disrupt City staff from their jobs**

Commission members should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met.

- **Never publicly criticize an individual employee**

Commission should never express concerns about the performance of a City employee in public or to the employee directly. Comments about staff performance should be made to the appropriate City Officer through printed correspondence or conversation. Comments about staff in the office of the City Attorney should be made directly to the City Attorney.

- **Do not get involved in administrative functions**

Commission members must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

- **Check with City staff on correspondence before taking action**

Before sending correspondence, Commission members should check with City staff to see if an official City response has already been sent or is in progress.

- **Do not attend meetings with City staff unless requested by staff.**

While recognizing all City government business is considered open unless specifically excluded by North Dakota Century Code, even if the Commission member does not say anything, the Commission member's presence implies support, shows partiality, intimidates staff, and hampers staff's ability to do their job objectively.

- **Limit requests for staff support**

Routine secretarial support will be provided to all Commission members.

Requests for additional staff support – even in high priority or emergency situations -- should be made to the City Administrator who is responsible for allocating City resources in order to maintain a professional, well-run City government.

- **Do not solicit political support from staff**

Commission members should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

Commission Conduct with the Public

"If a man be gracious and courteous to strangers, it shows he is a citizen of the world, and that his heart is no island cut off from other lands, but a continent that joins to them."

-- Francis Bacon

IN PUBLIC MEETINGS

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual Commission members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

- **Be welcoming to speakers and treat them with care and gentleness**

"I give many public presentations so standing up in front of a group and using a microphone is not new to me. But I found that speaking in front of Commission was an entirely different experience. I was incredibly nervous and my voice was shaking. I think the reason was because the issue was so personal to me. The Commission was going to take a vote that would affect my family's daily life and my home. I was feeling a lot of emotion. The way that Commission treats people during public hearings can do a lot to make them relax or to push their emotions to a higher level of intensity."

- **Be fair and equitable in allocating public hearing time to individual speakers**

"The first thing the Mayor said to me was to be brief because the meeting was running late and the Commission was eager to go home. That shouldn't be my problem. I'm sorry my item was at the end of the agenda and that there were a lot of speakers, but it is critically important to me and I should be allowed to say what I have to say and believe that the Commission is listening to me."

The Chair will determine and announce limits on speakers at the start of the public hearing process. Generally, each speaker will be allocated five-minutes with applicants and appellants or their designated representatives allowed more time. If many speakers are anticipated, the Chair may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

No speaker will be turned away unless he or she exhibits inappropriate behavior. Each speaker may only speak once during the public hearing unless the Commission requests additional clarification later in the process. After the close of the public hearing, no more public testimony will be accepted unless the Chair reopens the public hearing for a limited and specific purpose.

- **Give the appearance of active listening**

It is disconcerting to speakers to have Commission members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time gazing around the room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom.

- **Ask for clarification, but avoid debate and argument with the public**

Only the Chair – not individual Commission members - can interrupt a speaker during a presentation. However, a Commission member can ask the Chair for a point of order if the speaker is off the topic or exhibiting behavior or language the Commission member finds disturbing.

If speakers become flustered or defensive by Commission questions, it is the responsibility of the Chair to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by Commission members to members of the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Commission members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

- **No personal attacks of any kind, under any circumstance**

Commission members should be aware that their body language and tone of voice, as well as the words they use, can appear to be intimidating or aggressive.

- **Follow parliamentary procedure in conducting public meetings**

The City Attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. The Chair, subject to the appeal of the full Commission, makes final rulings on parliamentary procedure.

IN UNOFFICIAL SETTINGS

- **Make no promises on behalf of the Commission**

Commission members will frequently be asked to explain a Commission action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise Commission action, or to promise City staff will do something specific (fix a pothole, remove a library book, plant new flowers in the median, etc.).

- **Make no personal comments about other Commission members**

It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Commission members, their opinions and actions.

- **Remember that Mandan is a small town at heart**

Commission members are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the City of Mandan. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by Commission members, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

IN PUBLIC HEARINGS

This is the opportunity for you to receive input from the public, it is not a debate.

- Open the public hearing
- Ask questions of applicant
- Receive public comment (again, it is not necessary to debate)
- Close the public hearing
- Discussion among commission
- Act on application

Commission Conduct with the Other Public Agencies

"Always do right. This will gratify some people and astonish the rest."

-- Mark Twain

- **Be clear about representing the city or personal interests**

If a Commission member appears before another governmental agency or organization to give a statement on an issue, the Commission member must clearly state: 1) if his or her statement reflects personal opinion or is the official stance of the City; 2) whether this is the majority or minority opinion of the Commission.

If the Commission member is representing the City, the Commission member must support and advocate the official City position on an issue, not a personal viewpoint.

If the Commission member is representing another organization whose position is different from the City, the Commission member should withdraw from voting on the issue if it significantly impacts or is detrimental to the City's interest. Commission members should be clear about which organizations they represent and inform the Mayor and Commission of their involvement.

- **Correspondence also should be equally clear about representation**

City letterhead may be used when the Commission member is representing the City and the City's official position. A copy of official correspondence should be given to the City Administrator to be filed in the Commission Office as part of the permanent public record.

It is best that City letterhead not be used for correspondence of Commission members representing a personal point of view, or a dissenting point of view from an official Commission position. However, should Commission members use City letterhead to express a personal opinion, the official City position must be stated clearly so the reader understands the difference between the official City position and the minor viewpoint of the Commission member.

Commission Conduct with Board & Commissions

"We rarely find that people have good sense unless they agree with us."

--Francois, Duc de La Rochefoucauld

The City has established several Boards and Commissions as a means of gathering more community input. Citizens who serve on Boards and Commissions become more involved in government and serve as advisors to the City Commission. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

- **If attending a Board or Commission meeting, be careful to only express personal opinions**

Commission members may attend any Board or Commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation – especially if it is on behalf of an individual, business or developer -- could be viewed as unfairly affecting the process. Any public comments by a Commission member at a Board or Commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Commission.

- **Limit contact with Board and Commission members to questions of clarification**

It is inappropriate for a Commission member to contact a Board or Commission member to lobby on behalf of an individual, business, or developer. It is acceptable for Commission members to contact Board or Commission members in order to clarify a position taken by the Board or Commission.

- **Remember that Boards and Commissions serve the community, not individual Commission members**

The City Commission appoints individuals to serve on Boards and Commissions, and it is the responsibility of Boards and Commissions to follow policy established by the Commission. But Board and Commission members do not report to individual Commission members, nor should Commission members feel they have the power or right to threaten Board and Commission members with removal if they disagree about an issue. Appointment and re-appointment to a Board or Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Board or Commission appointment should not be used as a political "reward."

- **Be respectful of diverse opinions**

A primary role of Boards and Commissions is to represent many points of view in the community and to provide the Commission with advice based on a full spectrum of concerns and perspectives. Commission members may have a closer working relationship with some individuals serving on Boards and Commissions, but must be fair and respectful of all citizens serving on Boards and Commissions.

- **Keep political support away from public forums**

Board and Commission members may offer political support to a Commission member, but not in a public forum while conducting official duties. Conversely, Commission members may support Board and Commission members who are running for office, but not in an official forum in their capacity as a Commission member.

- **Inappropriate behavior can lead to removal**

Inappropriate behavior by a Board or Commission member should be noted to the Mayor, and the Mayor should counsel the offending member. If inappropriate behavior continues, the Mayor should bring the situation to the attention of the Commission and the individual is subject to removal from the Board or Commission.

Commission Conduct with the Media

"Keep them well fed and never let them know that all you've got is a chair and a whip."

-- Lion Tamer School

The media, for background and quotes, frequently contacts Commission members.

- **The best advice for dealing with the media is to never go "off the record"**

Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. But one bad experience can be catastrophic. Words that are not said cannot be quoted.

- **The Mayor is the official spokesperson for the representative on City position.**

The Mayor is the designated representative of the Commission to present and speak on the official City position. If the media contacts an individual Commission member, the Commission member should be clear about whether their comments represent the official City position or a personal viewpoint.

- **Choose words carefully and cautiously**

Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

Conflict of Interest & Personal Benefit

• Conflicts of Interest

City Commission members should declare a personal interest in any official actions and withdraw from participation in that action. If a law or policy permits a public servant to have such an interest, in seeking the opportunity to further that interest, or in furthering the interest if the opportunity is obtained, the Commission Member who has the personal interest shall comply fully with all procedures required under the applicable laws or policies, and shall not, under any circumstances, gain or attempt to gain any advantage by virtue of being in a public position.

No City Commission member shall accept or receive, directly or indirectly, from any person any personal benefit under circumstances in which it can be reasonably inferred that the benefit is intended to influence the Commission Member in the performance or nonperformance of any official duty or as a reward for any official action of the Commission member.

No person, including any vendor, contractor, business, or board of the City shall offer or give any personal benefit to any Commission Member or any partner-in-interest of the Commission Member.

No Commission Member nor partner-in-interest of that Commission Member shall solicit from any person, directly or indirectly, any personal benefit, regardless of value, or the promise of receiving a personal benefit in the future, for the Commission Member.

No current or former Commission Member shall intentionally use or disclose information gained in the course of, or by reason of, his or her official position or activities in any way that could result in the receipt of any personal benefit for the Commission Member, for a partner-in-interest of that Commission Member, or for any other person, if the information or if the Commission Member has not been authorized to communicate it to the public.

No Commission Member shall, in such capacity, participate in the discussion, debate, deliberation or vote, or otherwise take part in the decision making process on any agenda item before the City Commission in which the Commission Member or a partner-in-interest has a conflict of interest.

Sanctions

"You cannot have a proud and chivalrous spirit if your conduct is mean and paltry; for whatever a man's actions are, such must be his spirit."

-- Demosthenes

- **Public Disruption**

Members of the public who do not follow proper conduct after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Commission Chambers.

- **Inappropriate Staff Behavior**

Commission members should refer to the City Administrator or the City Attorney staff who do not follow proper conduct in their dealings with Commission members, other City staff, or the public. These employees may be disciplined in accordance with standard City procedures for such actions. (Please refer to the section on Commission Conduct with City Staff for more details on interaction with Staff.)

- **Commission members Behavior and Conduct**

City Commission members who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Commission, lose seniority or committee assignments or have official travel restricted. Serious infractions of the Leadership Code could lead to other sanctions as deemed appropriate by Commission.

Commission members should point out to the offending Commission member infractions of the Leadership Code. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being challenged, then the matter should be referred to the President of the Commission.

It is the responsibility of the Mayor to initiate action if a Commission member's behavior may warrant sanction. If the Mayor takes no action, the alleged violation(s) can be brought up with the full Commission in a public meeting.

If violation of the Leadership Code is outside of the observed behaviors by the Mayor or Commission members, the alleged violation should be referred to the Mayor. The Mayor should ask the City Administrator and/or the City Attorney to investigate the allegation and report the findings to the Mayor. It is the Mayor's responsibility to take the next appropriate action. These actions can include, but are not limited to: discussing and counseling the individual on the violations; recommending sanction to the full Commission to consider in a public meeting; or forming a Commission ad hoc subcommittee to review the allegation; the investigation and its findings, as well as to recommend sanction options for Commission consideration. Videotaping of the complaint hearing should be used for a Commission ad hoc subcommittee.

Principles of Proper Conduct

Proper conduct IS ...

- Keeping promises
- Being dependable
- Building a solid reputation
- Participating and being available
- Demonstrating patience
- Showing empathy
- Holding onto ethical principles under stress
- Listening attentively
- Studying thoroughly
- Keeping integrity intact
- Overcoming discouragement
- Going above and beyond, time and time again
- Modeling a professional manner

It all comes down to respect

Respect for one another as individuals. . . respect for the validity of different opinions . . .

respect for the democratic process . . . respect for the community that we serve.

Checklist for Monitoring Conduct

- Will my decision/statement/action violate the trust, rights or good will of others?
- What are my interior motives and the spirit behind my actions?
- If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
- How would people whose integrity and character I respect evaluate my conduct?
- Even if my conduct is not illegal or unethical, is it done at someone else's painful expense? Will it destroy their trust in me? Will it harm their reputation?
- Is my conduct fair? Just? Morally right?
- If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?
- Does my conduct give others reason to trust or distrust me?
- Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?
- Do I exhibit the same conduct in my private life as I do in my public life?
- Can I take legitimate pride in the way I conduct myself and the example I set?
- Do I listen and understand the views of others?
- Do I question and confront different points of view in a constructive manner?
- Do I work to resolve differences and come to mutual agreement?
- Do I support others and show respect for their ideas?
- Will my conduct cause public embarrassment to someone else?

Glossary of Terms

attitude	The manner in which one shows one's dispositions, opinions, and feelings
behavior	External appearance or action; manner of behaving; carriage of oneself
civility	Politeness, consideration, courtesy
conduct	The way one acts; personal behavior
courtesy	Politeness connected with kindness
decorum	Suitable; proper; good taste in behavior
manners	A way of acting; a style, method, or form; the way in which things are done
point of order	An interruption of a meeting to question whether rules or bylaws are being broken, such as the speaker has strayed from the motion currently under consideration
point of personal privilege	A challenge to a speaker to defend or apologize for comments that a fellow Commission member considers offensive
propriety	Conforming to acceptable standards of behavior
protocol	The courtesies that are established as proper and correct
respect	The act of noticing with attention; holding in esteem; courteous regard

ORDINANCE NO. 1088

AN ORDINANCE TO AMEND AND REENACT SECTION 21-03-02 OF THE MANDAN MUNICIPAL CODE RELATING TO DISTRICT BOUNDARIES AND ZONING MAP.

BE IT ORDAINED By the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

SECTION 1. AMENDMENT. Section 21-03-02 of the Mandan Municipal Code is amended to read as follows:

The following described property of Lakewood 6th Addition, located within the City of Mandan, shall be excluded from the A (Agricultural) and R7 (Single Family) zoning and shall be included in the zoning namely,

Lots 1-20, Block 1 to R7 (Single-Family Residential); Lots 1-4, Block 2 to R7 (Single-Family Residential); Lot 5, Block 2 to RM (Multi-Family Residential); and Lot 6, Block 2, will remain zoned A (Agricultural). The property is located on the west side of 39th Avenue SE, south of McKenzie Drive.

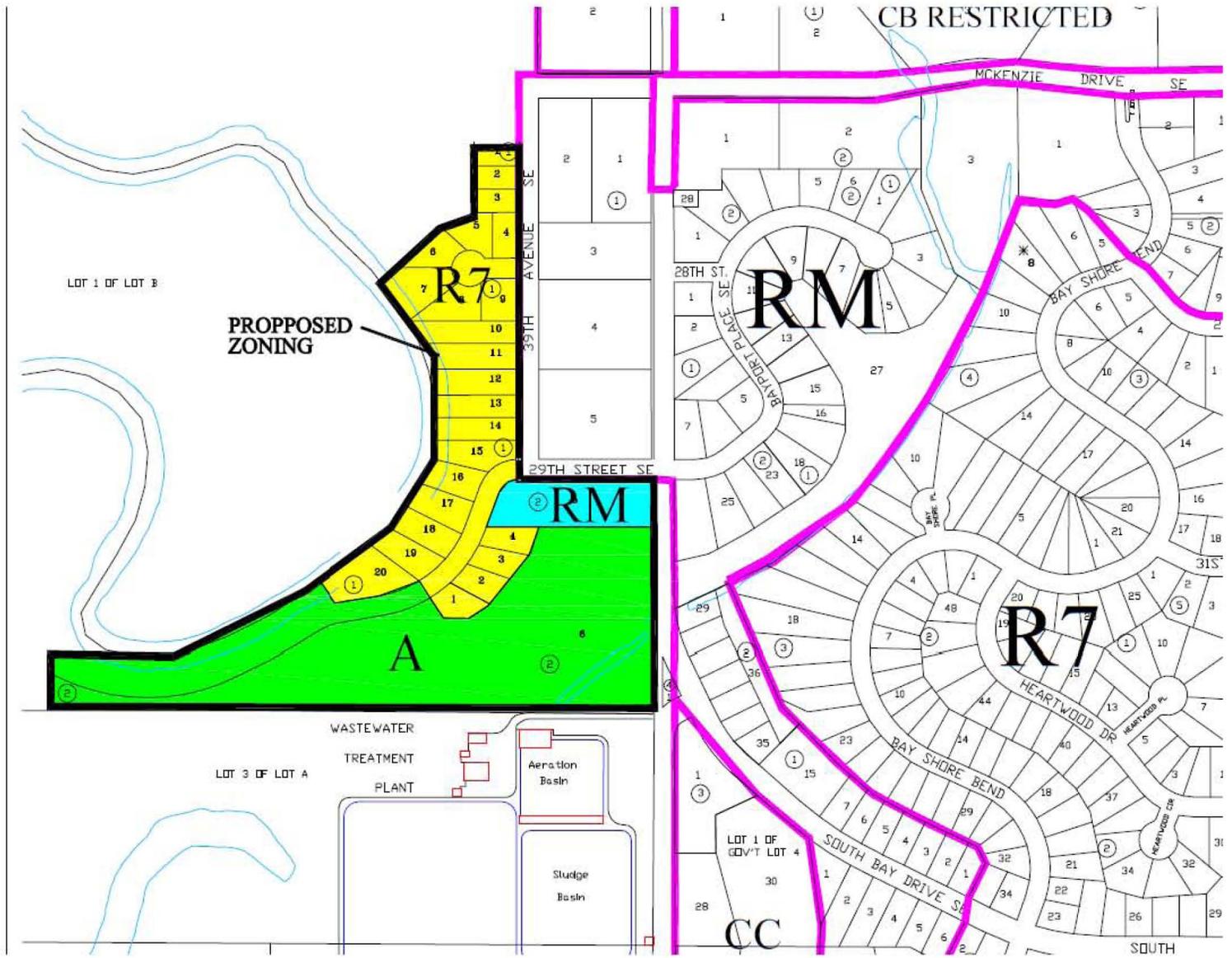
and as so amended said section is hereby reenacted. The purpose of the zone change is residential development and wetlands. The city administrator is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

President, Board of City Commissioners

Attest:

City Administrator

Publication Dates:	<u>December 3rd & 10th, 2010</u>
Public Hearing:	<u>December 14th, 2010</u>
First Reading:	<u>December 21st, 2010</u>
Second Reading:	<u>January 4th, 2011</u>
Publication Date:	<u>January 14th, 2011</u>
Recording Date:	_____



ORDINANCE NO. 1089

AN ORDINANCE TO AMEND AND REENACT SECTION 21-03-02 OF THE MANDAN MUNICIPAL CODE RELATING TO DISTRICT BOUNDARIES AND ZONING MAP.

BE IT ORDAINED By the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

SECTION 1. AMENDMENT. Section 21-03-02 of the Mandan Municipal Code is amended to read as follows:

The following described property located within the City of Mandan shall be excluded from the R7 (Single-Family Residential) zoning and shall be included in the CB (Heavy Commercial) namely,

Auditor Lot 2 of Lot E of the SW ¼ of Section 29, Township 139N, Range 81W

and as so amended said section is hereby reenacted. The purpose of the zone change is to match the current use of the property. The city administrator is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

President, Board of City Commissioners

Attest:

City Administrator

Publication Dates:	<u>December 3rd & 10th, 2010</u>
Public Hearing:	<u>December 14th, 2010</u>
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