

**SPECIAL MEETING AGENDA, WORKING SESSION
MANDAN CITY COMMISSION
MARCH 27, 2012
LAKEWOOD FIRE STATION No. 2
2009 40TH AVE SE
CONFERENCE ROOM
5:30 P.M.
www.cityofmandan.com**

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- A. ROLL CALL:
1. Roll call of all City Commissioners
- B. Discussion items:
1. Liquor licenses
2. Measure 2
3. Property tax exemption policy
4. Special assessments
- C. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:
1. April 3, 2012
2. April 17, 2012
3. May 1, 2012
- D. ADJOURN

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ORDINANCE NO. 1114

An Ordinance to Amend and Re-enact
Section 12-01-04(1) of the Mandan Code of Ordinances
Relating to Location

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

Section 12-01-04(1) of the Mandan Code of Ordinances is hereby amended and re-enacted to read as follows:

Section 12-01-04. Location.

1. General. No Class A or Class D license shall be issued to cover any location within three hundred feet of any premises the property line of property whereon is located any school, or church, public or parochial school, public library, hospital, college or university building used for academic purposes, unless the entity(s) affected by the above limitation consents to the issuance of the license. No license shall entitle the holder, except lodges and clubs as defined in this title, to carry on such business at retail except on the first floor above or on ground level; however, hotels and motels may deliver to their guests for consumption in their rooms.

By: _____
President, Board of City Commissioners

Attest:

City Administrator

First Consideration: _____
Second Consideration
and Final Passage: _____

ORDINANCE NO. 1115

An Ordinance to Create and Enact
Section 12-02-07(7) of the Mandan Code of Ordinances
Relating to Drive-up Window Sales

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

Section 12-02-07(7) of the Mandan Code of Ordinances is hereby created and enacted as follows:

Section 12-02-07(7). Drive-up Window Sales.

Sales of alcoholic beverages in closed containers may be made to persons in motor vehicles at drive-up windows designed for such purpose. However, it shall be unlawful to sell or serve alcoholic beverages in open containers to drivers or occupants of motor vehicles. It shall further be unlawful to serve or sell alcoholic beverages to pedestrians through drive-up windows designed and utilized for sales to persons in motor vehicles.

By: _____
President, Board of City Commissioners

Attest:

City Administrator

First Consideration: _____
Second Consideration
and Final Passage: _____

ORDINANCE NO. 1116

An Ordinance to Amend and Re-enact
Section 12-01-02 of the Mandan Code of Ordinances
Relating to Application of Chapter

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

Section 12-01-02 of the Mandan Code of Ordinances is hereby amended and re-enacted to read as follows:

Section 12-01-02. Application of Chapter.

1. This chapter is declared to be an exercise of the police power directly affecting and designed to promote peace, safety, good order, health and well-being of the people of the city. This chapter shall apply to all territory within the city and to such outlying contiguous territory without the corporate limits within which the city may exercise police jurisdiction as defined by law.

2. All licenses or permits issued by the city pursuant to this article confer a privilege on the license holder to engage in the activity or occupation so licensed, and do not constitute property or property rights or create any such rights in any license holder or applicant. No license or permit issued under this article may be mortgaged, encumbered, pledged, seized, levied upon, attached, executed upon, assessed or in any manner taken for the purpose of securing, or in satisfaction of, any debt, judgment, lien, mortgage, encumbrance or obligation.

By: _____
President, Board of City Commissioners

Attest:

City Administrator

First Consideration: _____
Second Consideration
and Final Passage: _____

ORDINANCE NO. 1117

An Ordinance to Create and Enact
Section 12-02-05.1 of the Mandan Code of Ordinances
Relating to Certification of Food Sales

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

Section 12-02-05.1 of the Mandan Code of Ordinances is hereby created and enacted as follows:

Section 12-02-05.1. Certification of Food Sales.

Any license holder which premises includes a restaurant and which allows persons under twenty-one (21) to enter the premises with a request for renewal of a license shall be required to file with the City a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that the licensee's gross revenue from the sale of food is equal to or exceeds the gross revenue from the sale of alcoholic beverages in the dining room. At the option of the licensee, in lieu of a certified public accountant's statement, licensee may request from the State Tax Commissioner's Office and furnish to the City Auditor's office a certified copy of licensee's sales tax returns for the most recent 12-month period prior to renewal.

By: _____
President, Board of City Commissioners

Attest:

City Administrator

First Consideration: _____
Second Consideration _____
and Final Passage: _____

ORDINANCE NO. 1118

An Ordinance to Amend and Re-enact
Section 12-02-08-(1), (2) and (3) of the Mandan Code of Ordinances
Relating to Transfers of Licenses Limited

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

Section 12-02-08-(1), (2) and (3) of the Mandan Code of Ordinances is hereby amended and re-enacted to read as follows:

Section 12-02-08. Transfers of Licenses Limited.

1. No license under the provisions of this chapter or any interest therein may be transferred to another person without the prior approval of the board. The accumulated transfers of ownership of more than thirty percent of the outstanding stock in any corporation holding a license issued hereunder, occurring at any time subsequent to the date of the application for a license, shall be reported by the licensee to the city auditor at the time the accumulated total of the transfers exceeds thirty percent of the outstanding stock. The accumulated transfers of ownership of fifty percent or more of the outstanding stock of any corporation holding a license hereunder, occurring at any time subsequent to the date of the application for a license, shall be deemed to be a transfer of the license and a request for the transfer of the license shall be submitted to the board for approval. The board shall determine what information surrounding the transaction shall be disclosed to the city by the applicant. Any concealment of the facts of the transaction shall be grounds for revocation of the license.

2. Not more than two licenses of each classification shall be issued to any applicant, and each license shall be valid only for the specific premises licensed.

3. No license shall be granted to any person who is a member of a partnership or partnerships possessing two or more retail alcoholic beverage licenses nor to any person owning more than one percent of the total common or preferred capital stock of any corporations, or combination of corporations, possessing two or more such licenses, nor shall any retail license be issued or granted to any person who is employed in any capacity in connection with any two or more other licensed liquor establishments, nor shall any retail license to sell alcoholic beverages be issued or granted to any member of the

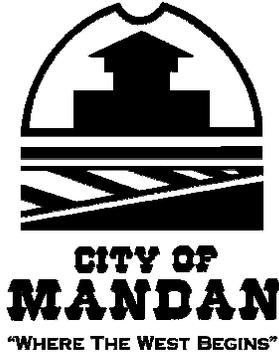
immediate family of any person who is the holder of two or more licenses
within the city limits of the City of Mandan.

By: _____
President, Board of City Commissioners

Attest:

City Administrator

First Consideration: _____
Second Consideration _____
and Final Passage: _____



Discussion

Board of City Commissioners

Agenda Documentation

MEETING DATE: March 27, 2012
PREPARATION DATE: March 22, 2012
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Procedures for Issuing New Liquor License

STATEMENT/PURPOSE: To consider procedures for issuing new liquor licenses.

BACKGROUND/ALTERNATIVES: The Board has discussed three different procedures for issuing new liquor licenses. The three alternatives are through auction, lottery or sealed bids. I have attempted to outline the time and procedure for each of these methods. It will be up to the Board to determine which alternative to follow.

If the Board chooses an unlimited number of licenses, the procedures become a moot point.

ATTACHMENTS: See attached schedule

FISCAL IMPACT: unable to determine until a minimum bid would be set.

STAFF IMPACT: minimal

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

Possible Procedures for Granting Additional Liquor Licenses

1. July
 - a. Determine if any new licenses will be available. (utilize utility billings for new living units)
 - b. Determine the process for awarding a license. (auction, lottery, sealed bids, other)
 - c. Determine if a minimum bid will be required.
 - i. If a minimum bid is required, determine the amount.
 - d. Establish deadline for applications (suggest last working day in August)
2. August
 - a. Accept applications for licenses
 - b. Review applications for completeness and perform background checks
3. September
 - a. Award Licenses via:
 - i. Auction
 1. Available to those whose application is complete
 2. Minimum bid has been received
 3. Background check is complete
 4. Highest bid receives license
 - ii. Lottery
 1. Available to those whose application is complete
 2. Minimum bid has been received
 3. Background check is complete
 4. Random drawing for number of licenses available
 5. If applicant is unsuccessful, and if additional license available the following year, and if there is a nonrefundable fee to get into the lottery, and if applicant wishes to gain a license, allow additional draws.
 - iii. Sealed Bids
 1. Available to those whose application is complete
 2. Minimum bid has been received
 3. Background check is complete
 4. Highest sealed bid receives license

ORDINANCE NO. 1119

An Ordinance to Amend and Re-enact
Section 12-02-06 of the Mandan Code of Ordinances
Relating to License Fee

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

Section 12-02-06 of the Mandan Code of Ordinances is hereby amended and re-enacted to read as follows:

Section 12-02-06. License fee.

The license fees shall be payable in advance at the time of the filing of the application. Should a license be granted for an unexpired portion of the term of the license, said fees shall be prorated on the basis of the number of months remaining in such term, determined as of the first day of the month in which such license is issued. No license issued pursuant to the provisions of this section shall be assignable or transferable and the failure to pay any license fee on or before the date when it is due shall automatically cancel the license.

The License fees shall be as established from time to time by resolution of the Board of City Commissioners.

Whenever the board increases the number of licenses available in any class, or when a license is not renewed, or is revoked, a one time only issuance fee, in an amount determined by the board, in its discretion, ~~which reflects the current market value of licenses in the same class,~~ shall be paid by any new licensee. The issuance fee shall be in addition to the annual license fee. In lieu of setting an issuance fee ~~reflecting current market value,~~ the board may utilize a competitive bidding process for the award of these licenses, ~~and~~ may determine a minium bid, and conduct a lottery or substitute any other procedure for the issuance of a license as determined by the board.

By: _____
President, Board of City Commissioners

Attest:

City Administrator

First Consideration: _____
Second Consideration
and Final Passage: _____

ORDINANCE NO. 1120

An Ordinance to Amend and Re-enact
Section 12-02-04 and to Repeal Section 12-02-05
of the Mandan Code of Ordinances
Relating to Alcoholic Beverage Licenses

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

Section 12-02-04 of the Mandan Code of Ordinances is hereby amended and re-enacted to read as follows:

Section 12-02-04. Classification of beer alcoholic beverage licenses--Numbers restricted.

There shall be six classes of beer alcoholic beverage licenses, namely:

1. Class A. General retail (on- and/or off-premises) license;
2. Class B. Club (on- and/or off-premises) license to be issued only to clubs and lodges, whose profits from the sale of beer alcoholic beverages are used only for benevolent purposes;
3. Special B. Publicly Owned or Operated Facilities.
 - a. A license for the retail on-sale of beer only at the manager's building may be issued to the manager of the municipal golf course designated by the Mandan park district, which shall be nontransferable and shall be held only for the period of the manager's contract and shall terminate with the termination of his contract. The license fee shall be one hundred dollars per annum for that portion of the year in which such golf course is open. This license shall be limited to the service of beer only to the patrons at the municipal golf course and not open to the public at large;
 - b. A license for the retail on-sale of beer only at the Dakota Centennial Park may be issued to the concessionaire designated by the Mandan park district, which shall be nontransferable and shall be held only for the period of the concessionaire's contract and shall terminate with the termination of the contract. The license fee shall be one hundred dollars per annum for that portion of the year in which such park is open. This license shall be limited to the service of beer only to the patrons of the Dakota Centennial Park and not open to the public at large;
 - c. (Reserved for future use);
 - d. (Reserved for future use);

- e. Persons or entities holding a Special Class B beer only licenses are eligible applicants under the provisions of Section 12-02-16 of this code relating to special Sunday permits but they are not eligible applicants for a special catering permit under the provisions of Section 12-02-13 of this code. In making application for a special Sunday permit under the provisions of Section 12-02-16, the application must be in the name of the public facility and signed by the president of the park board, or the duly authorized park board representative and the holder of the Special Class B beer only license.
4. Class C. Motel and hotel (on- and off-premises) license to be issued to the owner or lessee of hotels and motels having forty or more sleeping rooms, provided that such license may not be transferred to another location and only one licensee may carry on business in the hotel or motel;
5. Class D. Exclusive retail off-sale beer and wine only.
6. Class E. Food and beverage license, permitting on-premises beer alcoholic beverage sales, subject to the following restrictions and conditions:
 - a. A licensee hereunder may sell beer alcoholic beverages in a restaurant separated from the room in which beer alcoholic beverages is are opened sold, if the gross sales of food are at least equal to the sales of beer alcoholic beverages in the dining room.
 - b. On-Premises Only. The food and beverage license shall be for on-premises beer alcoholic beverage sales only, and no authority is conferred under said license pursuant to this section to engage in the off-sale liquor alcoholic beverage business.
 - c. Location. Once a food and beverage license has been established at a particular location, no transfer of the license to another location may be permitted. A cessation of business at a licensed location for a period of thirty days or longer shall automatically cancel the license.
 - d. Related Provisions. The food and beverage license shall be governed by all applicable provisions of the ordinances of the city, relating to restaurants; and further, such restaurants shall meet all requirements for a license under this title.

~~The number of Class A licenses shall be and the same is restricted to seventeen in number until such time as the population of the city as shown by federal, state or local official census is in excess of twenty-five thousand people, in which event an additional license may be granted for each additional two thousand population over twenty-five thousand as disclosed by such official census. There shall be but seven Class D licenses issued in the city until such time as the population as shown by such census shall be in excess of twenty thousand, in which event an additional license may be granted for each additional five thousand population over fifteen thousand as disclosed by such census. Such census shall be conclusive as to the determination of the population of the city for this purpose.~~

7. The number of Class A general retail on- and/or off-sale alcoholic beverage licenses shall be 20. The number of Class D exclusive retail off-sale beer and wine only licenses shall be 7.

This section shall not be construed to require the city to issue licenses equal to the number allowed hereunder and the board in its discretion, should it deem that a significant number of such licenses have been issued, may refuse to issue any license even though authorized under this section.

Section 12-02-05 of the Mandan Code of Ordinances is hereby repealed in its entirety.

This Ordinance shall take effect as of July 1, 2012.

By: _____
President, Board of City Commissioners

Attest:

City Administrator

First Consideration: _____
Second Consideration _____
and Final Passage: _____

**MEASURE #2 IMPACT
PROPERTY TAXES
2012 BUDGET**

TAXES	GENERAL FUND	CITY'S SHARE OF SPECIAL ASSESSMENTS FUND	CEMETERY FUND	PUBLIC TRANSPORTATION FUND	LIBERTY MEMORIAL BRIDGE GENERAL OBLIGATION BONDS FUND	REFUNDING IMPROVEMENT BONDS FUND	MORTON MANDAN PUBLIC LIBRARY	MANDAN AIRPORT AUTHORITY	TOTAL
PROPERTY	\$ 3,277,600	\$ 145,350	\$ 78,500	\$ 85,300	\$ 67,800	\$ 44,000	\$ 298,550	\$ 170,600	\$ 4,167,700
MOBILE HOME	\$ 41,400	\$ 1,200	\$ 1,050	\$ 1,050	\$ 800	\$ 450	\$ 3,700	\$ 2,100	\$ 51,750
DISABLED VETERANS CREDIT	\$ 12,750	\$ 150	\$ 200	\$ 300	\$ 250	\$ 150	\$ 1,100	\$ 600	\$ 15,500
HOMESTEAD CREDIT	\$ 36,600	\$ 400	\$ 650	\$ 900	\$ 750	\$ 450	\$ 3,200	\$ 1,800	\$ 44,750
MORTON COUNTY- LEC	\$ 35,000								\$ 35,000
MORTON COUNTY							\$ 155,513		\$ 155,513
TOTAL	<u>\$ 3,403,350</u>	<u>\$ 147,100</u>	<u>\$ 80,400</u>	<u>\$ 87,550</u>	<u>\$ 69,600</u>	<u>\$ 45,050</u>	<u>\$ 462,063</u>	<u>\$ 175,100</u>	<u>\$ 4,470,213</u>
% OF REVENUE BUDGET	46%		52%				77%	25%	
% OF EXPENDITURE BUDGET	47%		57%				75%	25%	

**CITY OF MANDAN
COMMERCIAL PROPERTY TAX EXEMPTION
POLICY AND GUIDELINES**

Businesses that are primarily industrial, commercial, retail or service are eligible for property tax incentives for new and expanding businesses if they meet state requirements (NDCC 40.57.1) and the guidelines stated below. The following criteria are only guidelines. Each application will be evaluated on its own merits.

- General criteria - In evaluation applications for property tax exemption, the Growth Fund Committee will consider the following factors:
 - Economic impact through increased construction activity, equipment purchases, additional product purchases, additional work activity, immediate and projected increases in property values, and impact on future tax collections.
 - Number of jobs created and employee benefits
 - Types of jobs - professional, managerial, technical, skilled, unskilled
 - Emphasis on full-time positions
 - Diversification of economic base
 - Growth potential of company and industry and potential spin-off benefits
 - Impact on city services
 - Can the company be accommodated within existing service levels, or will additional capacity be needed?
 - Is the company locating where better use of existing services will take place or further the development plans of the City?
 - Utilization of local resources
 - Will the company be an exporter from our region?
 - Will it provide support services to existing companies?
 - Use of raw materials and services developed in the area
- A new or expanded business in the community must not gain unfair advantage with existing competitors through use of the exemption. Applicant should be prepared to demonstrate that an unfair advantage is not gained over any possible existing competitor for the amount of exemption received.
- Property tax incentives must be approved prior to the start of construction.
- Projects that are primarily warehousing (for the storage of goods, raw materials or commodities) would not receive an incentive unless the owner proves need or provides other information to justify the exemption.
- Amount of exemption will be according to the following schedule:
 - Year 1 - 100%
 - Year 2 - 100%
 - Year 3 - 75%
 - Year 4 - 50%
 - Year 5 - 25%
- Annual reports - By February 15 of each year, the recipient of the exemption will file an annual employment verification report with the Bismarck - Mandan Development Association.
 - A qualified project may receive up to 100% exemption in each of years 3, 4 and 5 provided that at the end of year two at least one full-time job has been created for every

\$100,000 of the building's value subject to the tax exemption. Jobs must be maintained in years 3, 4, and 5.

- An exemption that has been granted will be considered lapsed and invalid if construction has not begun in one year and completed in two years. Notice will be sent to the project operator 90 days prior to the exemption lapsing.
- After an exemption has been granted, if the project operator needs to locate the operation in another facility; the exemption may be transferred to the new building. The value of the new building cannot be more than 15 percent higher than that of the building for which the exemption was originally granted. If the new building is more than 15 percent greater in estimated value, the Growth Fund Committee will reconsider the exemption.

The Board of Commissioners may waive any of these requirements if they deem a business should receive additional incentives because of its benefits to the community.

Improvements to Commercial

NDCC 57-02.02 allows exemptions for property renovations, remodeling, alterations, and additions. A property tax exemption is available for all improvements to commercial buildings or structures. The value of qualifying improvements is exempt. The last assessment on the building or structure prior to commencement of the improvements remains for the duration of the exemption period, unless equalization or revaluation of building values is necessary. The exemption does not apply to land values, which may be changed whenever justified. The exemption is valid for the prescribed period and does not terminate upon the sale or exchange of the property. It is transferable to subsequent owners.

Payments in Lieu of Taxes

The City of Mandan may consider up to a five-year payment in lieu of tax (PILOT) in years 6-10 for a new or expanded business. A qualified project may be required to pay only 50% of taxes that would otherwise be due, provided the following guidelines are met:

- The project size must have at least \$700,000 market value of newly constructed buildings or structures.
- A minimum of 20 new full-time jobs providing an average wage of \$9.00 per hour excluding benefits must be created by the end of year 5. These jobs must be maintained years 6-10.
- Annual reporting requirements by the recipient will continue in years 6-10.
- An inflation factor may be included in the payment schedule and also in the average hourly wage. This inflation factor will be determined at the time the payment schedule is set.
- If the project fails to meet any of the above listed guidelines in years 6-10, the project will not be eligible for any percentage of the reduction in taxes. The tax reduction on this project cannot be re-applied for if the requirements are again met in the future and the initial 10-year period has not expired.

Multi-Family Residential

Tax incentives for multi-family housing may be considered for qualifying projects under the federal low income housing tax credit program, for projects with a mixed-use commercial component, or for projects of 24 units or more.

Sale to Non-Profit

If a property receiving a tax exemption is sold or in any way transferred to a non-profit corporation, the property owner may be asked to pay back all tax revenue given as part of the exemption.

Non-profits may be asked to make payments in lieu of taxes for essential services.