

AGENDA
MANDAN CITY COMMISSION
AUGUST 4, 2015
ED "BOSH" FROELICH MEETING ROOM,
MANDAN CITY HALL
5:30 P.M.
www.cityofmandan.com

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- A. ROLL CALL:
1. Roll call of all City Commissioners.
- B. APPROVAL OF AGENDA:
- C. PUBLIC COMMUNICATIONS:
- D. MINUTES:
1. Consider approval of the minutes from the July 21, 2015 Board of City Commission Regular Meeting.
- E. PUBLIC HEARING:
- F. BIDS:
- G. CONSENT AGENDA:
1. Consider for approval replat of Lot 7, Block 2 Meadow Ridge 3rd Addition
2. Consider Sunday Opening for the Mandan Moose #425 on August 30, 2015.
3. Consider 2015 budget amendments for Public Works Shop repairs, LED Christmas lights and yard hydrants for the park.
4. Consider sale of City of Mandan property with an estimated value over \$1,000.
5. Inform of approved Change Order No. G-1 of Wastewater Treatment Facility Interim Optimization project.
6. Consider allowing the Railroad Museum to sign and paint the city curb to reserve a loading and unloading zone near their main entrance.
7. Consider for approval replat of Lots 1 & 2, Block 1 West Bay Estates 3rd Addition.
8. Consider for approval contract between City of Mandan and Paulson Contracting for improvements to the Beanery.
- H. OLD BUSINESS:
- I. NEW BUSINESS:
1. Consider Mandan Renaissance Zone Committee recommendations

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- i. Approval of an application for lease of 100 Collins Ave by Icon Architectural Group
 - ii. Approval to prorate property tax exemption of 100 Collins Avenue in accordance with share of commercial space leased
 - 2. Consider Mandan Growth Fund Committee recommendations
 - i. Expansion of Downtown Storefront Improvement boundaries
 - ii. Approval of an application by L. Barch Properties, LLC for a storefront improvement project at 4018 Memorial Highway
 - iii. Request by Dot Frank for modification of Storefront Improvement project at 112 Second Ave NW
 - 3. Consider the creation of a Cemetery Advisory Committee.
 - 4. Consider land lease to Hirsch Floral Inc.
- J. RESOLUTIONS AND ORDINANCES:
 - 1. Second consideration and adoption of Ordinance 1207 - new municipal code.
 - 2. First consideration of Ordinance 1213 – Correcting previous annexation documents.
- K. OTHER BUSINESS:
- L. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:
 - 1. August 18, 2015
 - 2. September 1, 2015
 - 3. September 15, 2015
- M. ADJOURN

Public Communication

A scheduled time for public participation has been placed on the agenda at Mandan City Commission meetings. The Board desires to hear the viewpoints of citizens throughout the City. Individuals wishing to address the Board are encouraged to make arrangements with the Board President or the City Administrator prior to the meeting. Comments should be made to the Board and not to individuals in the audience and be related to City operations and programs. The Board will not hear personal complaints against any person connected with the City. If a citizen would like to add a topic to the agenda, arrangements must be made in advance with the City Administrator or Board President. The Board reserves the right to eliminate or restrict the time allowed for public participation. The Board requests that comments are limited to three (3) minutes or less. Groups of individuals addressing a common concern are asked to designate a spokesperson.

The Mandan City Commission met in regular session at 5:30 p.m. on July 21, 2015 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Rohr, Laber, and Braun. Department Heads present were Finance Director Welch, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development & Communications Director Huber, Planning & Engineering Director Froseth, Planner Decker, Assessor Shaw, and Building Official Lalim. Also present: Deputy Police Chief Leingang. Absent: Police Chief Bullinger.

B. APPROVAL OF AGENDA: Commissioner Laber requested that the Agenda order be revised so that Old Business follows New Business. Commissioner Laber moved to approve the Agenda. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present. The motion passed.

C. PUBLIC COMMUNICATIONS: Mayor Van Beek invited anyone interested to speak for or against any items on the Agenda to come forward.

James Backer came forward to speak on the cemetery issues. He said there are a lot of problems to be addressed. He asked that consideration should be consistent for everyone. For example, if some benches don't have to be removed because someone paid a lot of money for them, then the others shouldn't have to be removed either. If one bench has to be removed, they should all be removed. He said the same standard should also apply to rock borders in that whatever is decided, it should pertain to all, not just some.

A second announcement was made to come forward to speak. Hearing none, this portion of the Public Communications was closed.

D. MINUTES:

1. *Consider approval of the following minutes from the Board of City Commission July 7, 2015 regular meeting.* Commissioner Tibke moved to approve the minutes as presented. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

E. PUBLIC HEARING:

1. *Conduct public hearing to consider adoption of new City Code.* Planner Decker stated that this process has been ongoing for a period of time. The City contracted with Municode Corporation to help update the City Code. Tonight is the time set for the residents to discuss the updates if they so desire. He explained that the format was revised and some of the language was updated. There were no substantive changes to the rules and regulations, as those will come later. This revision is only a reformatting of the code and making sure the language is up to date and complies with state law. He noted that the current code is divided into 15 Titles. The proposed new code is reorganized into two parts and contains 22 Chapters. The current code was last updated in 1994.

Mayor Van Beek invited anyone interested to speak for or against the request for the adoption of new city code to come forward. A second announcement was made to come forward to speak. Hearing none, this portion of the public hearing was closed.

F. BIDS:

1. *Consider award of bids for insulation and rehabilitation of windows at Northern Pacific Beanery.* City Administrator Neubauer stated that this project has been ongoing since 2013 when the City of Mandan applied for a ND DOT grant for rehabilitation of the Depot and the Beanery. Due to the funds that were available, the Beanery is the only one receiving improvement at this time. In particular, there is no insulation in the attic in the Beanery and the tenants are paying astronomical heating and cooling bills in both summer and winter. Hepper Olson Architects were hired for the project and will meet all the requirements to obtain the DOT grant. The grant is for \$77,772 and the bid amount with alternatives is \$200,000. The project was bid out twice of which there were no bidders for the first bid. The second time bids were received Paulson Contracting LLP, Emerado, ND was the only and low bidder. With the project and architectural costs, the project is estimated to be about \$225,000 less the grant of \$77,772, and that will leave a balance of \$147,228 which would come out of the Visitors Fund. The Visitors Committee met in April 2013 and approved up to \$100,000 towards this project. This has been in process for a couple years and we are taking into consideration it has been challenging to bid this project. The request is to approve the base bids and alternates and to fund the improvements out of the Visitor's Fund.

Commissioner Laber stated that in reviewing this project it appears as if the request is for the Visitor's Fund to pay \$147,000 and to approve the construction contract of \$200,000. Nothing was said about the architect fees of \$25,000. Is that a separate contract that will be brought later? Administrator Neubauer stated the Commission approved the Architectural Contract in 2013. The amount, when taking the construction bid of \$200,000 and the Architect bid of \$25,000 for a total cost of \$225,000 less the grant amount of \$77,000 leaves a balance of \$147,000 that would be funded out of the Visitor's Fund.

Commissioner Braun moved to award the base bid plus alternates for rehabilitation at the Mandan Beanery of a total construction cost of \$225,000, utilizing the Visitor's Fund to pay the balance of \$147,228. Commissioner Laber seconded the motion.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

G. CONSENT AGENDA

1. *Consider approval of monthly bills.*
2. *Acting as Board of Adjustment, consider lot coverage variance request for 1501 4th Ave. NE.*
3. *Consider approval of the pledge of securities reports as required by NDCC 21-04.*

4. *Consider approval of temporary road closure at 15th St. NW from 6-8:30 on September 21st.*
5. *Consider approval of Change Order No. 2 to the Engineering Service Agreement with Stantec for SID #199.*
6. *Consider Supplementary Agreement to Construction Engineering Agreement with KLJ for Safe Routes to School project for Red Trail sidewalk.*
7. *Consider for approval the advertisement of bids for the sale of used water meters removed during the Water Meter Improvement Project.*
8. *Consider approval of the Bond Counsel Agreement from Arntson Stewart Wegner.*
9. *Consider Proclaiming November 1, 2015 as “Extra Mile Day” in the City of Mandan.*
10. *Consider Approval of Law Enforcement Center Improvement Requests.*
11. *Consider approval of liquor license transfer for the Old Town Tavern.*

Commissioner Braun moved to approve the Consent Agenda as presented.

Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

H. OLD BUSINESS:

1. *Consider new rules and regulations at the Mandan Union Cemetery as proposed by the Cemetery Task Force Committee.* Director of Public Works Wright discussed the proposed rules that were brought to this Commission on May 19, 2015 indicating that as a result of that discussion, a Cemetery Task Force was organized. They were requested to study the new rules and to come back with a recommendation to the Commission. There were 6 members appointed to the Task Force; 3 of which supported the rules and 3 that did not. The Task Force consists of Sharon Huettl, Becky Hilfer, Mandy Dendy, Marsha Boehm, Cindy Rebenitsch and JoAnn Hodny. The task force committee requested that Mandy Dendy present the proposed rules and regulations to the Commission.

Mandy Dendy came forward and extended a thank you to Commissioner Tibke and the other task force members who worked on this project. She said that after listening to everyone's different opinions, it soon became clear that a change must be made. Groundskeeper Chad Boehm expressed that each grave site at the cemetery is to be neatly trimmed and respectfully cared for. There was consensus among the committee during discussion that he cannot do his job to the best of his ability under the current circumstances. Ms. Dendy said the caretakers tending to graves will change over time and it is not possible for staff to notify them all so policy changes must be uniform. She said no one was completely satisfied with the new policy, but it was a nice compromise. After this policy goes into effect, she said she will be going out to her family grave site and will be removing a bench as well as other items that she would prefer not to remove. She outlined the guidelines of the proposed policy:

- Floral items may be placed no earlier than seven days before specified holidays and must be removed within 14 days after the holiday: Memorial Day, Independence Day, Veterans Day, Thanksgiving, Christmas and Easter

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- Floral items that are attached to the headstones and placed in a manner that allows for unobstructed mowing and trimming. These will be removed when they become unsightly
 - Fresh flowers can be placed on the grave site at any time, but there must be no wrapping, plastic or glass containers
 - Annuals will be allowed in a ground-level planting area on the east side of the headstone, not to exceed the length of the headstone and no wider than 8 inches
 - Borders or rocks are not permitted on cemetery grounds
 - Ground mount memorial vase holders are allowed to be placed on the southwest corner of a flat marker
 - No trees or perennials will be permitted
 - Commemorative items that are attached to or placed above a headstone in a manner that does not impede mowing and trimming are allowed
 - No benches are allowed unless an integral part of the monument
 - Previous permanent plantings will be grandfathered in. However, plantings that impede ground maintenance will be cut back or removed
 - Visitors have until Oct. 15 to collect items not permitted. Staff will remove them and hold them until June 1, 2016
 - Non-compliant plantings will be relocated, removed and discarded at the discretion of cemetery staff
 - September 1, 2015, is adopted as the date for implementation of the rules and regulations under the new policy.

Mayor Van Beek extended a thank you to the Task Force for their time and efforts in coming up with a policy and guidelines that will enhance Mandan Union Cemetery. Commissioner Tibke stated that it was a honor to serve with this Task Force by listening to the perspectives of all the individuals involved.

Commissioner Braun motioned to approve the new rules and regulations with the exception that the clause “Pets are welcome, however, they must be leashed and please pick up after them.” be removed and no pets would be allowed in the Cemetery. Commissioner Rohr seconded the motion.

Commissioner Tibke stated this matter was discussed and it was determined by the Task Force that this would not be a problem. She said she is against the motion. Ms. Dendy returned to the podium and indicated that they had discussed this issue at the task force meetings and the cemetery staff did not indicate that there was a big problem with pet waste. Director of Public Works Wright said the animal waste issue was a mild one at the cemetery grounds and people do bring their dogs to walk dogs. Bags and disposal sites for the pet waste may be provided in the future. Chad Boehm commented that it is a minor issue and not one big enough wherein pets should be banned from the cemetery.

Roll Call Vote: Commissioner Rohr: No; Commissioner Tibke: No; Commissioner Laber: No; Commissioner Braun: Yes; Commissioner Van Beek: No. The motion failed.

Commissioner Laber moved to approve the new rules and regulations for the Mandan Union Cemetery as proposed by the Cemetery Task Force Committee. Commissioner Tibke seconded the motion. Roll Call Vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: No; Commissioner Van Beek: Yes. The motion passed. City Attorney Brown recommended publishing the new Policy Rules and Regulations in the newspaper.

I. NEW BUSINESS:

1. *Introduction of Police Officers Michael Breid, Jessica Krosch, Dominic Hanson and Code Enforcement Officer Joseph Camisa.* In the absence of Police Chief Bullinger, Deputy Police Chief Leingang, presented the following new officers and staff that have recently joined the Mandan Police Department: (i) Michael Breid: Officer Breid is a graduate of the Law Enforcement Academy in Alexandria, Minnesota. He previously worked as a Deputy Sheriff in Adams County. He completed his training about July 1, 2015. (ii) Jessica Krosch: Officer Krosch is a native of Minnesota and graduated from the Law Enforcement Academy in Hibbing, Minnesota. She has a Bachelor's Degree in Criminal Justice. She is also in the Army Reserves. She completed field training about a week ago. (iii) Dominic Hanson was unable to be present. (iv) Joseph Camisa: Code Enforcement Officer Camisa comes from New York. He has a BS and MA in American History and will be completing his Master's degree in Public Administration. He previously worked for the National Park Service. He will be working with the department heads to address all coding enforcement issues for the City. Mayor Van Beek welcomed all the new employees to the City of Mandan.

2. *Consider Appointment of new Morton Mandan Public Library Board of Trustees new members.* Sarah Warneke, Assistant Library Director, stated that as of July 2014, the Library Board has had 4 vacancies, 2 for the City and 2 for the County. The MMPL Board has 2 representative recommendations for the City position for the Commission's approval this evening. The first candidate, Ashley Portra currently works for the Governor's Communication team. The second member is David Leingang, who was a part of the Library's Strategic Planning Committee. The county positions are still vacant. She encouraged interested parties to visit the website and to contact the Library if they are interested in serving.

Ms. Warneke recommended appointment of the two applicants: Ashley Portra for a 3-year term from July 2015 to June 2018 and to reappoint David Leingang to a second 3-year term from July 2015 to June 2018.

Commissioner Laber moved to approve the appointments of Ashley Portra to the Morton Mandan Public Library Board of Trustees for a 3-year term from July 2015 to June 2018 and to reappoint David Leingang to a second 3-year term from July 2015 to June 2018. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider recycling proposal options.* Director of Public Works Wright previously presented recycling proposals from Waste Management, Dakota Sanitation and Armstrong Sanitation. On June 2, 2015, the City Commission awarded Armstrong Sanitation the contract to haul the household garbage directly to Bismarck. The recycling bid proposals received included residential, curbside single sort recycling including 2 and 3-plex units, and single sort recycling drop-off sites and optional apartment single sort recycling for apartments over 4 units. All proposals were bid for a 5 year term. The single sort curbside includes a 96 gallon tote that would be picked up every other week. He reviewed the bids for the Commission. The bids for residential curb side single sort recycling ranged from \$4.38 month/unit to \$5.80 month/unit. The low bid was based on using the Mandan Transfer Station to compact materials into boxes and then haul them to a recycling center in Minnesota. If the existing transfer station cannot be used, the cost would be \$4.79 month/unit. The bids include the apartment single sort range from \$3.71 month/unit to \$6.43 month/unit. The low bid was based on using the transfer station at the landfill and if not then the cost would be \$4.12 month/unit. The apartment units would be provided with a 300 gallon recycling tote for every 8 yard recycling bin that they now have. The last bid option was to provide single sort recycling at 4 drop off sites throughout the city. They range from \$16,650 to \$53,207 per year. The low bid proposal being 4-20 yard dumpsters picked up once a month to 16-8 yard dumpsters picked up twice a week.

Director Wright said that when Bismarck introduced recycling, they saw a 14% reduction in solid waste at the landfill. He said that Mandan should expect to see that percentage of reduction with Armstrong Sanitation. Director Wright reviewed the options for consideration and the fiscal impact for each of those options.

Mayor Van Beek questioned whether Bismarck picks up every other week. Director Wright replied that they do pick up every other week.

Rick Anderson from Dakota Sanitation came forward to comment on the single stream recycling process by West Fargo, in which they are projecting a 25% reduction based on weight. He said that Bismarck is based at 14% and if they would not have gone with the option to opt out, their numbers would have been much higher. However, it is projected that recycling will be the process for the future.

Commissioner Laber asked what the purpose was of the Landfill Reserve Fund. Director Wright stated that the Landfill Reserve Fund is set aside for purposes if there is to be a replacement of the current landfill site. Finance Director Welch stated that the Landfill Reserve Fund is also to be used for major improvements that may be needed down the road for a transfer station. Further, it is not only for a landfill reserve, it is also for a building improvement reserve. That reserve stays the same amount every year.

Commissioner Laber stated that she would not be in favor of using the Landfill Reserve Fund to fund this project. However, she is in favor of a curb side single sort recycling program for the City of Mandan. Director Welch stated that the subsidy, if taken out of the reserve, would be replenished by the end of 2018. Mayor Van Beek commented that without needing a motion this evening, both curb side and the site locations should be

considered. He noted that recycling is important. Director Wright said the options will be revisited and he will see how they will affect the 2016 budget. He will bring that additional information back to the Commission.

Paul Kalibabky from Waste Management commented that he believes single stream recycling is the preferred way to go with this project. The reason his bid was higher was mainly because Waste Management has experience in initiating the process of recycling. He mentioned he previously launched both the Bismarck and West Fargo projects.

4. *Consider joint power agreement with Mandan Park District.* City Attorney Brown stated that this is the next step of the sales tax vote for the Park District project improvements. State law authorizes governmental political subdivisions like the City and the Park District or the City and the County to venture into Joint Powers Agreement to do things that both parties have to do together. He explained what this will accomplish. General administration of the project will be by the Park District who will be responsible for the contracts. The involvement of the City will be the collection of the sales tax wherein the State Tax Commissioner has already been notified to start collecting that tax on October 1st. There is an Escrow Agreement with the Bank of North Dakota assuming that the City will sell bonds to pay for this project wherein BND will be the escrow agent. There is a draft document for review in circulation now that will be presented at an upcoming meeting. The Agreement will be effective when it is approved by both the City and the Park District. It can be amended from time to time if needed.

Commissioner Laber moved to approve the Joint Power Agreement between the Mandan Park District and the City of Mandan related to the sales tax authorized by City Ordinance 1210. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

1. *First consideration of Ordinance 1207 adopting new city code.* City Attorney Brown addressed the following: (1) The Ordinance is not as long as the code because the City must publish any ordinance. The Ordinance was drafted and lists any penalties contained in the code. There are no new penalties. Because of the publication of the code, it was decided to publish the penalty associated with the Ordinance. (2) A thank you was extended to Planner Decker for his efforts in this project and working with Municode.

Planner Decker said there were Committee meetings held with various department heads and other key people including City Attorney Brown. He said that each chapter has been reviewed. For example, he indicated that the traffic section has a specific numbering system to cross reference the state numbering system for use by the police department as needed. Doug Lalim, Building Official stated that they had advertised jointly with Municode to adopt some “housekeeping” language for the flood maps. The Appendix includes flood maps and flood plain information stating that new maps will be released

on 10/16/15. This does not affect residential properties.

Commissioner Laber moved to approve the First consideration of Ordinance 1207 adopting new city code. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Second Consideration and Final Passage of Ordinance No. 1208 rezoning Lakewood 8th Addition.* Commissioner Rohr moved to approve the Second Consideration and Final Passage of Ordinance No. 1208 rezoning Lakewood 8th Addition. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Second Consideration and Final Passage of Ordinance No. 1212; An Ordinance to Amend and Re-enact Section 20-14-23(7) of the Mandan Code of Ordinances Relating to Parking of Certain Vehicles and Unattached Trailers Restricted.* Commissioner Laber asked if this section is 20-14 and if it does not match the code adopted tonight, will it be absorbed into the new one. Planner Decker said that Municode will adjust any of these Ordinances that the City adopts and will work with the existing numbers to merge them into the new code. Once we adopt these Ordinances, we send them over to Municode for merging.

Commissioner Laber moved to approve the Second Consideration and Final Passage of Ordinance No. 1212; An Ordinance to Amend and Re-enact Section 20-14-23(7) of the Mandan Code of Ordinances Relating to Parking of Certain Vehicles and Unattached Trailers Restricted. Commissioner Braun seconded the motion.

Commissioner Rohr commented that still of concern is that just because a resident purchases a camper, it should not be an obligation of the City to provide “free” parking on the street for those campers. He pointed out that other residents that do have recreational vehicles make arrangements to park their (campers) vehicles elsewhere for a fee. He doesn’t think parking these vehicles on the street should be an option. Commissioner Tibke stated that the concern is allowing residents to pull up to their home and load & unload the camper without getting a visit from the police to deal with the parking situation. She suggested allowing 48 hrs. so the vehicle is not parked there for a full week.

Harold Schmidt, a Mandan resident came forward to comment. He said he believes having the larger campers, sometimes with boats attached to them, parked on the street is a nuisance and a danger if there are children in the area.

Mayor Van Beek stated that it has been brought up as to how close to a corner or alley way the campers can be parked because of blinded vision. He suggested looking into 10 or 15 feet distance requirement of parking a vehicle from a corner or alleyway. Deputy Chief Leingang stated that he has visited with Chief Bullinger who would be in favor of

reducing the time limit from 72 hrs. to 48 hrs. and that they have not had time to review any setbacks that were brought up. He explained that for enforcement purposes, it would have to be taken “times two” as there is a (timing) process to go through from getting a complaint before ticketing the vehicle in violation.

Commissioner Tibke said she would like to amend the parking requirement to 24 hours, due to possible violation enforcement actions that may have to be taken by the police department.

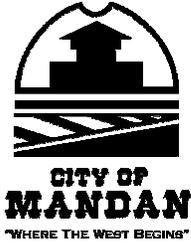
Commissioner Tibke motioned to amend Ordinance 1212 to state as follows: For the time from May 15th to September 15th a trailer or vehicle may be parked on a street for a period not to exceed twenty-four (24) hours. Commissioner Laber seconded the motion to amend Ordinance 1212. Roll call vote: Commissioner Rohr: No; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: No; Commissioner Van Beek: Yes. The motion passed.

K. OTHER BUSINESS:

There being no further actions to come before the Board of City Commissioners, Commissioner Tibke moved to adjourn the meeting at 6:57 p.m. Commissioner Laber seconded the motion. The motion received unanimous approval of the members present. The motion passed.

James Neubauer,
City Administrator

Arlyn Van Beek,
President, Board of City
Commissioners



Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: July 31, 2015
SUBMITTING DEPARTMENT: Engineering & Planning
DEPARTMENT DIRECTOR: Justin Froseth
PRESENTER: Robert Decker, P.E., Principal Planner
SUBJECT: Consider for approval replat of Lot 7, Block 2, Meadow Ridge 3rd Addition

STATEMENT/PURPOSE:

Request is to split the lot so that each half of a duplex structure can be sold separately.

BACKGROUND/ALTERNATIVES:

This property is zoned RM that allows duplex structures.

The lot is more than twice as large as the minimum. The resulting half lots will be more than 8600 square feet.

Only one sewer service was provided to the lot when the area was developed. The waterline is in the boulevard on this side of the right-of-way. Connection of water and sanitary sewer lines must be coordinated with Public Works.

Final fully executed plat must conform to county requirements for recording.

ATTACHMENTS:

1. Subdivision Location Map
2. Draft Plat Map
3. Utility Map

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

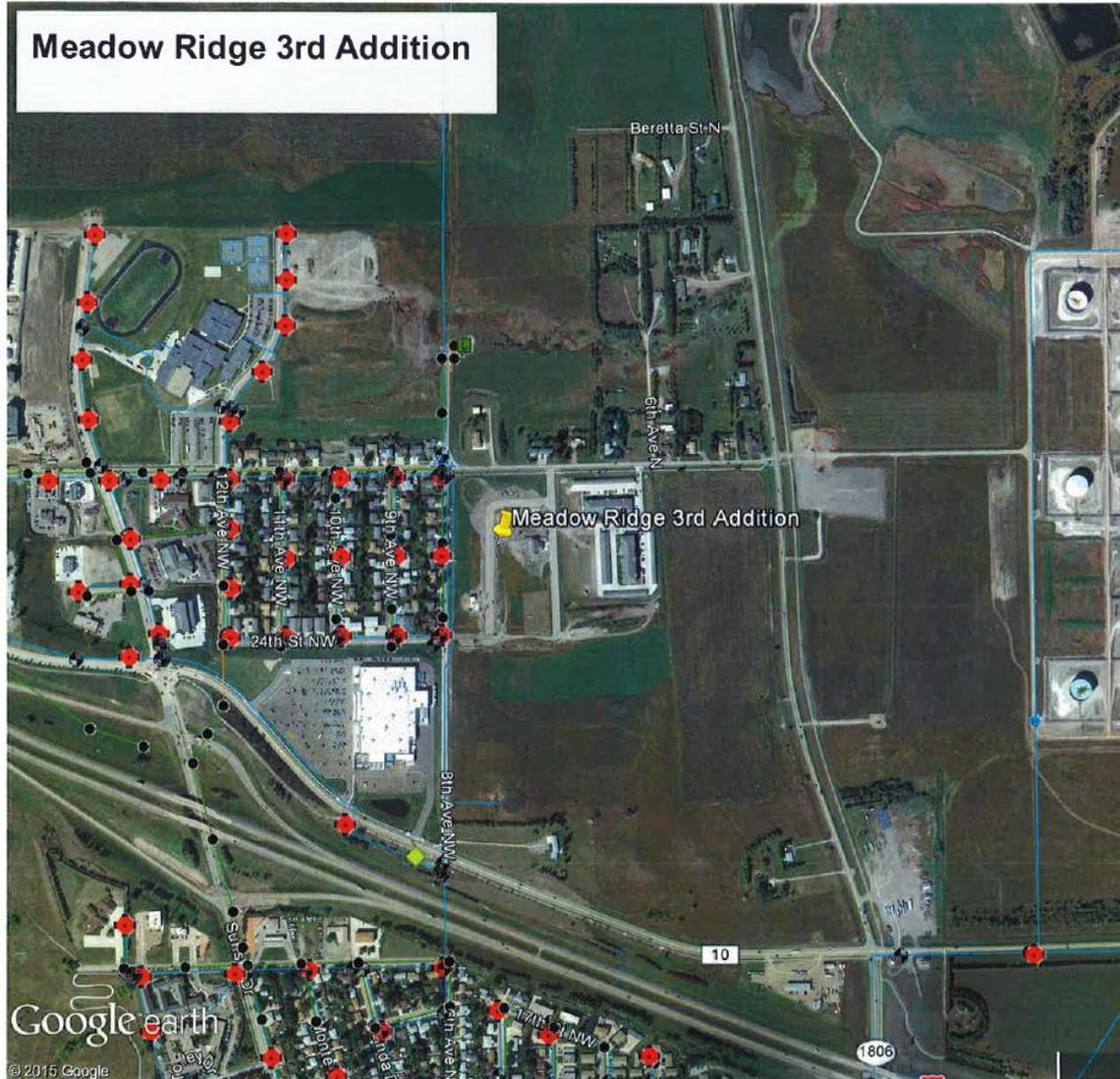
LEGAL REVIEW: All of my commission data has been forwarded to the City Attorney for his review.

RECOMMENDATION:

Recommend approval.

SUGGESTED ACTION:

Move to approve replat of Lot 7, Block 2, Meadow Ridge 3rd Addition



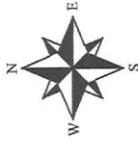
PLAT OF SURVEY

LOT 7A

A parcel of land in Meadow Ridge Third Addition in the NW 1/4 Section 22, T139N-R81W of the City of Mandan, Morton County, North Dakota, more particularly described as follows:
 Beginning at the NE Corner of Lot 7, Block 2, said Meadow Ridge Third Addition; thence along North Line of said Lot 7, S.87°42'36"W, 145.81'; to the NW Corner of said Lot 7; thence S.01°10'50"E, 57.51'; thence N.88°51'38"E, 146.96'; to the East line of said Lot 8; thence along the East line of said Lot 7, N.02°18'06"W, 60.45', to the Point of Beginning 0.2 of an acre more or less.

LOT 7B

A parcel of land in Meadow Ridge Third Addition in the NW 1/4 Section 22, T139N-R81W of the City of Mandan, Morton County, North Dakota, more particularly described as follows:
 Beginning at the SW Corner of Lot 7, Block 2, said Meadow Ridge Third Addition; thence along South Line of said Lot 7, N.89°56'42"E, 148.62' to the SE corner of said Lot 7 which is also a point of curve to the right with a Chord Bearing of N.04°04'14"W, and a chord distance of 14.34', with a radius of 283.00'; thence along the East line of said Lot 7, N.02°18'06"W, 46.03'; thence to the West line of said Lot 7, S.88°51'38"W, 146.96'; thence along the said West, S.01°10'50"E, 57.53', to the Point of Beginning and containing 0.2 of an acre more or less.



meridian land surveys
 1022 e. divide ave, suite g
 bismarck, north dakota 58501

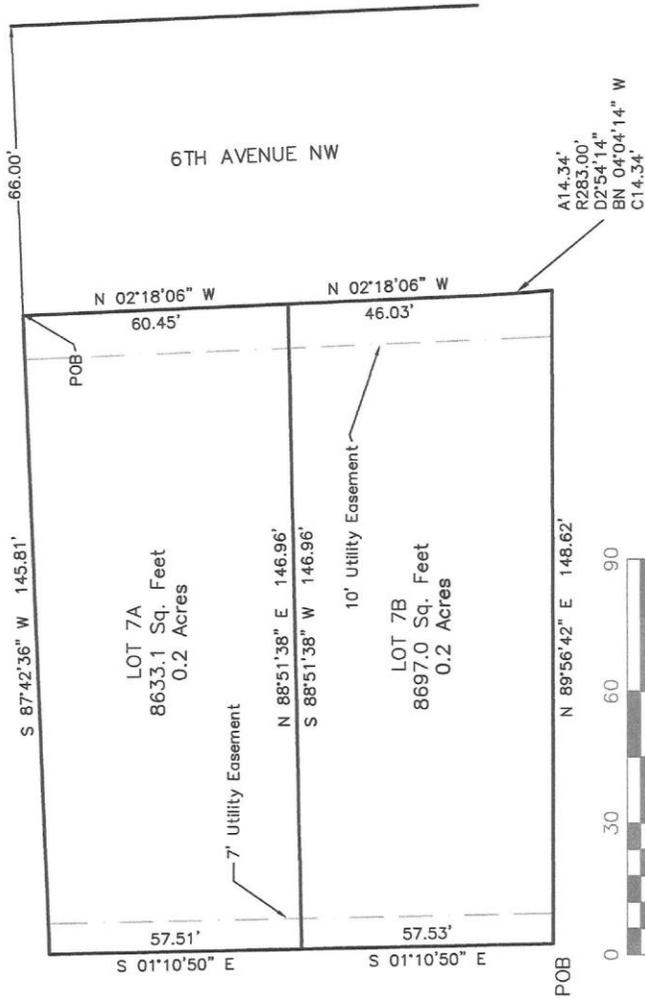
SURVEYOR'S NOTES

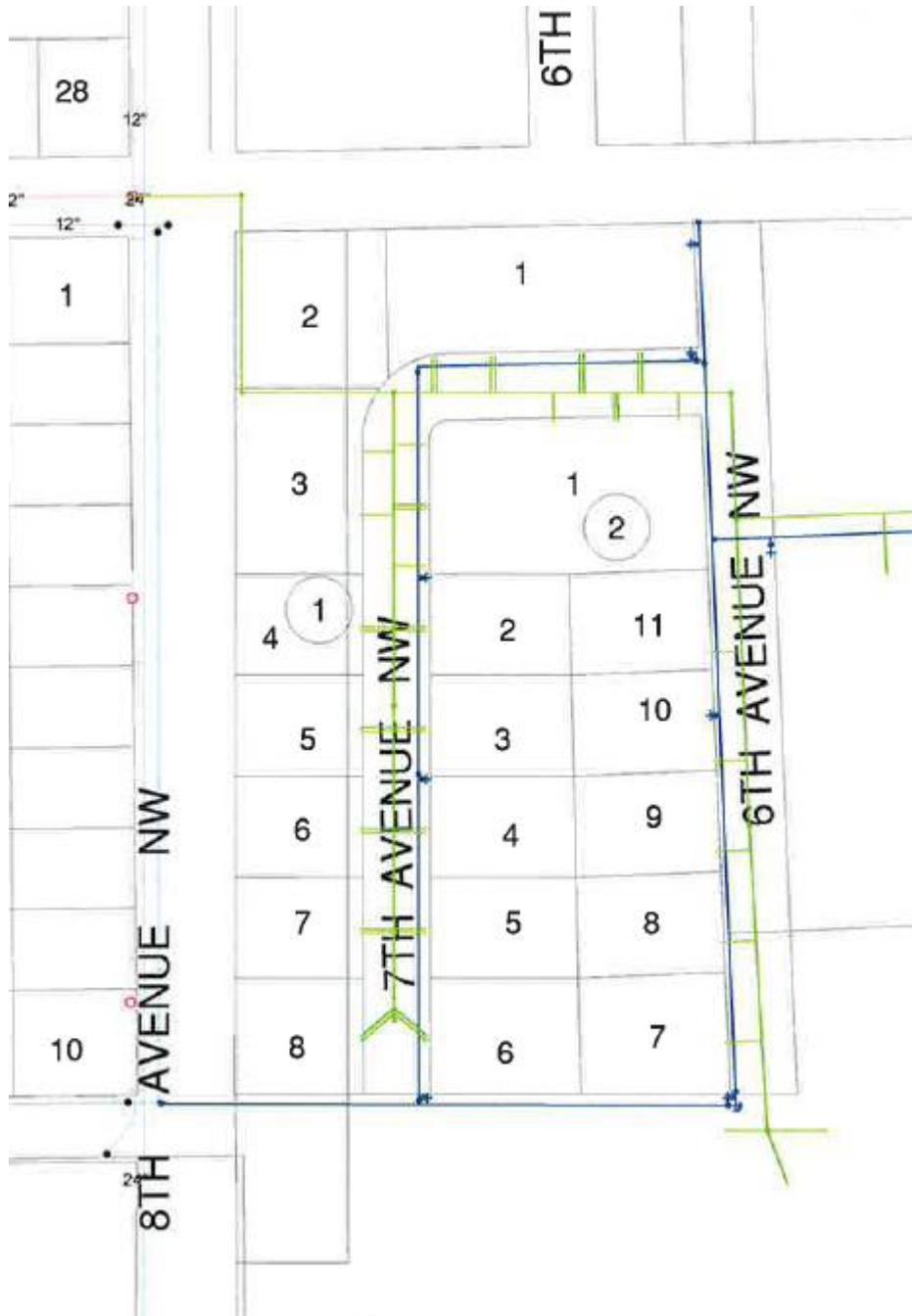
1. Basis of Bearing - Using record bearing along the North line of Lot 8 from two found monuments at the corners.
2. Survey completed for a lot split.

SURVEYOR'S CERTIFICATE

I, Michael Zimny, hereby certify that this plat is a representation of a survey made by me or under my direction and that said survey has been made in conformity with the Manual of Instructions For the Surveyors of the State of North Dakota.

Date: 7/15/15
 Signed by: *Michael Zimny*
 NDPLS NO: _____





CITY OF MANDAN

SUNDAY ALCOHOLIC BEVERAGE PERMIT

Date of Application: Aug 30th

Name of Licensee: Mandan, Moore 425

Address of Licensee: 111 11th Ave NE

Address of public facility if used: Ø

State the purpose of organization: Self Tournament

Date(s) of requested Sunday(s): Aug 30th

Time of day which the applicant desires the permit to be in effect: 12:00 noon

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:

Social Quarters

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

Self Tournament participants will come to Lodge after golfing for lunch and beverages.

If applicable, estimated number of police officers necessary to provide security at the dance to be open to the public:

NA

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.
- d. The applicant as a condition to the issuance of such permit consents and agrees that any City police officer may enter upon and inspect the licensed premises or any part thereof at any time for the purpose of determining compliance with the conditions of the permit;
- e. The permit issued under this section may not expand the scope of the class of alcohol license held by the applicant;
- f. An applicant which holds a Class A liquor license must supply copies of the most recent six month's filings of the City food and lodging taxes and allow the City to verify with the ND State Tax Department that said tax payments have been made.
- g. The permittee shall comply with all other applicable ordinances and laws relating to the use and sale of alcoholic beverages in the City.

Karim M. All
Received by:

[Signature]
Signature of Applicant

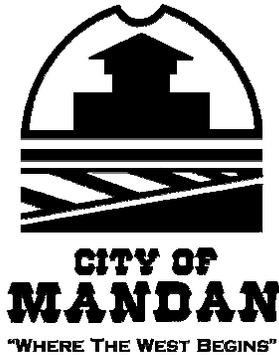
Date Received: 7-30-15

Commission Approval: _____

Auditor Approval: _____

\$5.00 Fee per Sunday-Amount paid \$ 5.00 Receipt # _____

Copy to be filed with Mandan Police Department



Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: July 30, 2015
SUBMITTING DEPARTMENT: Public Works
DEPARTMENT DIRECTOR: Jeff Wright
PRESENTER: Jeff Wright, Public Works Director
SUBJECT: Consider 2015 budget amendments for Public Works Shop repairs, LED Christmas lights and yard hydrants for the park.

STATEMENT/PURPOSE: Consider amending the 2015 Street Department budget for the repair of two garage doors, the 2015 Shop Building budget for the replacement of the gas pump and the 2015 Grounds Maintenance budget for LED Christmas light bulbs and yard hydrants at the park.

BACKGROUND/ALTERNATIVES: The existing doors on the south and east side of the shop are in poor shape, have become unrepairable and are a safety concern. Contractors have indicated they can no longer be repaired and are in danger of falling down. This was presented to the Budget Committee as a 2016 budget item and was an item we felt should not wait any longer.

The gas pump is another item that has become obsolete and parts are no longer available, or are very hard to find. When the pump is down for a day or two all the police and fire vehicles are forced to go to a gas station to fill at a higher cost to their departments. Again, this item was a 2016 budget item and was suggested to get it replaced now rather than later.

The request has been made to replace the existing lights in the Christmas ornaments with LED lights. The LED lights are more efficient and should last longer, meaning less maintenance and lower electric bills. Also, there are two yard hydrants in the park that need replacing, our utility department would install.

ATTACHMENTS: Door estimates, pump estimate, LED lights estimate.

FISCAL IMPACT: Doors, 100.131.62112 - \$15,000, Pump, 703.703.62114 - \$8,000, LED lights and hydrant, 280.280.62114 - \$10,700.

Some funding possibilities could be the savings from the installation of new roof at shop, first 4 months of 2015 we saw about a \$3,500 decrease in our gas bill, also we are auctioning off an old 2-1/2 ton truck and two 7 yd. dump boxes, these proceeds could

Board of City Commissioners

Agenda Documentation

Meeting Date: August 4, 2015

Subject: Consider 2015 budget amendments for Public Works Shop repairs, LED Christmas lights and yard hydrants for the park.

Page 2 of 5

help offset the costs for the shop repairs. We may also be eligible for grant money for the LED lights, we are checking on that possibility.

STAFF IMPACT: Change out existing light bulbs with LED lights, would have to go through them before they get put up anyway.

LEGAL REVIEW: N/A

RECOMMENDATION: I recommend the 2015 budget amendments for Public Works Shop repairs, LED Christmas lights and yard hydrants for the park as presented.

SUGGESTED MOTION: I move to amend the 2015 budgets for Public Works Shop repairs, LED Christmas lights and yard hydrants for the park as presented.

CITY OF MANDAN
2015 BUDGET
REQUEST FORM
AND GREATER

CS DOORS Inc.
218 South 26th Street • Bismarck, ND 58501

Object: PROPOSAL Date: May 21, 2015

Building / Improvement: _____
Machinery / Equipment: _____
Vehicle: _____

City of Mandan
Mandan, ND

Estimated trade in value: _____
Other departments with similar equipment? Yes No RE: Replacement door(s)
Does it match with your department's _____

1 ea. 16'8"Wx16'H Raynor Thermaseal (TM175), white, flush, 25 ga. exterior skin, 26 ga. interior skin,
2" angle mount track, insulated with an R-value of 16.4, neoprene head and jamb seal,
normal headroom track that requires 18" of headroom with an operator attached,
5 ea. 24"x8" insulated windows in the 3rd section.
MATERIALS & LABOR-----\$5,515.38

1 ea. 14'2"Wx16'H Raynor Thermaseal (TM175), same as above.
MATERIALS & LABOR-----\$4,126.55

1 ea. Raynor CSH-211, 1/2 HP industrial duty jackshaft operator with standard 3-button wall station,
no remotes, 115 V single phase, standard electric brake, operator is rated for 30 cycles per hour,
standard monitored photo eyes to comply with UL 325, chain hoist back up operation,
pusher bumpers.
MATERIALS & LABOR-----\$1,304.97

1 ea. Raynor CST-211, same as above but trolley operator.
MATERIALS & LABOR-----\$1,065.58

Please note, the above pricing does not include any reframing.

PAYMENT TERMS: 3% DISCOUNT 10 DAYS, NET 11, 1 1/4% S.C. 30 DAYS

Note: All bids valid for 60 days, after which time they would be subject to review.

EXCLUSIONS:

- We do not include any electrical work.
- We do not include any painting.
- We do not include any mounting pads or jambs.

Submitted by: Brian L. Mertz
Brian L. Mertz

Accepted by: _____ Date: _____
Title: _____ P O # _____

(701) 224-0599 • Toll Free ND 1-800-642-6590 • Fax # (701) 224-1836
"PROVIDING DOORS AND SPECIALTY PRODUCTS"

Board of City Commissioners

Agenda Documentation

Meeting Date: August 4, 2015

Subject: Consider 2015 budget amendments for Public Works Shop repairs, LED Christmas lights and yard hydrants for the park.

Page 4 of 5

CITY OF MANDAN
2016 BUDGET
CAPITAL OUTLAY REQUEST FORM
(ONLY FOR ITEMS \$5,000 AND GREATER)

Department:	Shop
Account Number:	703.703.1 62114 SW
Object:	
Land:	
Building / Improvements:	
Machinery / Equipment:	Gas Pump
Vehicle:	
Estimated Price without trade	\$8,000
Estimated trade in value	\$
Other departments with similar equipment?	Y or N <input checked="" type="radio"/> SW
Does it match with your department's equipment replacement schedule?	Y or N <input checked="" type="radio"/> SW
Provide a description of the item requested:	
Gas Pump For Fueling System	
Provide a description of the item to be traded in if applicable:	
Provide the purpose and justification of the item requested:	
Pump is obsolete and cannot get parts for it anymore, it doesn't work.	
Attach picture of existing item below:	Attach picture of replacement item below:
Equipment. Also Must Can Be Moved To New Buildings If Needed.	Building in Future. Can Be Used in Other
Attach picture of existing item below	Attach picture of replacement item below

Board of City Commissioners

Agenda Documentation

Meeting Date: August 4, 2015

Subject: Consider 2015 budget amendments for Public Works Shop repairs, LED Christmas lights and yard hydrants for the park.

Page 5 of 5

CONTACT APPROVED
GRECI
BUDGET
CONSTRUCTION/MAINTENANCE PROJECT REQUEST FORM

Department: Park Maintenance
Account Number: 280.280.62114

Object: LED Christmas Lights and Hydrants

Street _____ Sidewalk _____
Water & Sewer _____ Solid Waste _____ Street _____
Other

56798

Joe Veil
471-9331
225-8460

COAST TO COAST OFFICE MACHINES
452 W Edmonton Drive
Bismarck ND 58503

4 yard Hydrants
\$ 3,200

Total Estimated Cost: \$ 500
Construction/Maintenance \$ 12,500
Engineering \$ _____
Other \$ _____
Total \$ 12,500

Total Estimated Funding:
Federal \$ _____
State \$ _____
Local \$ 12,500
Other \$ _____
Total \$ _____

Provide a description of the project:
Replace The Existing Christmas Lights & Hydrants in Dinosaur Park.
This is a Request From The City Of Bismarck
Christmas Lights The Request Is For
Only Replacing The Existing Park

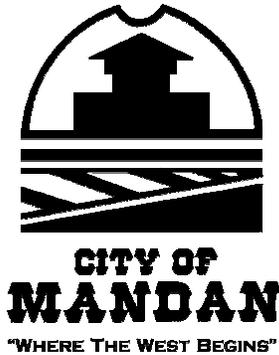
CUSTOMER'S ORDER NO.	DEPT.	DATE:
NAME:	City of Mandan	June 29-1.
ADDRESS:	Mandan ND 58554	
CITY, STATE, ZIP		

SOLD BY:	CASH	C.O.D.	CHARGE	ON ACCT.	MISC RTD.	PAID BY:
			X			

QUANTITY	DESCRIPTION	PRICE	AMOUNT
LED	C9-C7 LED lamps		
906	-C9- Red		
1124	-C9- Green		
776	-C9- Amber		
344	-C9 Warmwhite		
314	-C7 Amber		
1316	-C7 Warmwhite		
664	-C7- Red		
444	-C7- Blue		
Total	Order 5882 -		\$ 8840.29
	plus shipping UPS		
(8/15)	Retail price will increase 10%		

RECEIVED BY: *Accountability Cannot be Guaranteed after 8/31*

ORIGINAL
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Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: July 30, 2015
SUBMITTING DEPARTMENT: Public Works
DEPARTMENT DIRECTOR: Jeff Wright
PRESENTER: Jeff Wright, Director of Public Works
SUBJECT: Consider sale of City of Mandan property with an estimated value over \$1,000.

STATEMENT/PURPOSE: Consider sale of the following City of Mandan property through public auction, sealed bids or trade in value:

- 1994 Chevy Kodiak 2-1/2 Ton Truck Chassis – Street Dept – Engine overhaul is needed at an estimated cost of over \$20,000.
- (2) 7 yd. dump boxes – Street Dept – Trucks have been converted to sand trucks, boxes and hoists are in poor shape. Hoist replacement is over \$5,000. Paint job of \$2,500. Our single axle trucks are being replaced with tandem axle trucks, no use of smaller boxes.

BACKGROUND/ALTERNATIVES: The listed equipment/vehicles have been replaced or are no longer mechanically sound.

By City of Mandan Ordinance, items with an estimated value of over \$1,000 require City Commission approval to sell. Estimated value for truck is \$5,200, boxes about \$2,500

ATTACHMENTS: pictures, truck picture shows sander box that will be removed prior to sale.

FISCAL IMPACT: Revenues from sale could be used to help fund building repairs needed at the shop. Two garage doors and gas pump.

STAFF IMPACT: Minimal

LEGAL REVIEW: N/A

RECOMMENDATION: Recommend allowing sale of the listed equipment/vehicles through public auction, sealed bids or as a trade in.

SUGGESTED MOTION: Move to allow the sale of the listed equipment/vehicles through public auction, sealed bids or as a trade in.

Board of City Commissioners

Agenda Documentation

Meeting Date: August 4, 2015

Subject: Consider sale of City of Mandan property with an estimated value over \$1,000.

Page 2 of 2





Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: July 31, 2015
SUBMITTING DEPARTMENT: Engineering/Wastewater Treatment Facility
DEPARTMENT DIRECTOR: Justin Froseth/Steve Himmelspach, Facility Superintendent
PRESENTER: Justin Froseth, Planning and Engineering Director
SUBJECT: Inform of approved C.O. G-1 for Wastewater Treatment Facility Optimization Project

STATEMENT/PURPOSE: In accordance with city change order policy, change orders of contract increase between \$25,000 and \$50,000 must be brought to city commission as an information item.

BACKGROUND/ALTERNATIVES: This change order specifies; 1) some additions to interior coatings for the BioFilter system, 2) manhole caulking 3) additional manhole relief valve, and 4) installation of line stop. The line stop is the majority of the cost of this change order and is necessary to stop sewer water coming through an old valve that is not properly stopping the flow thus not enabling the contractor to conduct necessary work to the force-main pipe coming in to the facility.

City staff has reviewed these requests with our consulting engineers AE2S and we believe they are necessary for the project.

ATTACHMENTS:

1. Change Order No. G-1
2. Supporting E-mails

FISCAL IMPACT: Adds \$25,047 to the contract amount with Swanberg. Project is still well within budget and approved SRF loan amount.

STAFF IMPACT: Minimal

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

RECOMMENDATION: None. This item is for informational purposes.

SUGGESTED MOTION: No motion necessary, for informational purposes.

CONTRACT CHANGE ORDER FORM

DEPARTMENT

Contract between the City of Mandan and SWANBERG CONSTRUCTION, INC.

Contract Number: _____ Change Order Number: G-1

Project/Subproject: WWTF INTERIM OPTIMIZATION Original Contract Amt: _____

Project Description: VARIOUS WORK TO OPTIMIZE WWTF OPERATIONS

Previous Contract Amount: \$2,399,000⁰⁰

Change Order Amount: +\$25,047⁰⁰

Original Contract Date: 1/26/15 Change in Contract Timeline: 14 DAYS

Within Project Scope: (Y) / N Within Project Funding: (Y) / N

Type of Change Order:

Non Design-related Change Order: These change orders include unforeseen conditions, code-related issues, and building inspector changes.

Design-related Change Order: These change orders include unforeseen conditions that affect the appearance, layout, functionality, dimensions, and/or quality of the project.

Emergency Field Condition Change Orders: These change orders include any condition that causes an emergency situation where safety or other immediate losses may occur.

Other: _____
(describe)

Project Manager (Department Head) Signature (<\$25,000): _____ Date

ADMINISTRATION

City Administrator Signature (<\$50,000): [Signature] 7-31-15
Date

Add to Commission Consent Agenda

COMMISSION APPROVAL

Commission Approval Date: _____

Attach Minutes for Commission Approval

Fiscal

Comments: _____

TO ALL DEPARTMENTS: Please attach a copy of the change order.

Change Order No. G-1

Date of Issuance: July 31, 2015

Effective Date: August 4, 2015

Project: <i>Mandan WWTF Interim Optimization</i>	Owner: <i>City of Mandan, ND</i>	Owner's Contract No.: 2014-22
Contract: <i>General Construction</i>	Date of Contract: <i>January 26, 2015</i>	
Contractor: <i>Swanberg Construction, Inc.</i>	Engineer's Project No.: P00510-2012-006	

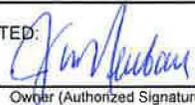
The Contract Documents are modified as follows upon execution of this Change Order:

Description of Change: Provide labor, equipment, and materials for the following:

Item	Description	Cost Adjustment
1	Change all interior coatings in biofilter to "System 11" outlined in Spec Section 09 90 02	\$3,330.00
2	Seal joints of OC manholes w/ polysulfide caulking	\$534.00
3	2" FM modifications to PTB - Add duckbill check valve and vacuum relief valve per WCD G-3	\$2,798.00
4	Install 12" Line stop to isolate 16" ACP FM to make required site piping modifications	\$18,385.00
Total Net Change - CO G-1		\$25,047.00

Attachments: Biofilter Coatings MEMO; Manhole Caulking Memo; Swanberg Cost Proposals for WCD G-3 & Installation of 12" line stop

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$ <u>2,399,000.00</u>	Original Contract Times: <input type="checkbox"/> Working days <input checked="" type="checkbox"/> Calendar days Substantial completion (days or date): <u>January 31, 2016</u> Ready for final payment (days or date): <u>February 28, 2016</u>
[Increase] [Decrease] from previously approved Change Orders No. N/A to No. N/A : \$ <u>\$0.00</u>	[Increase] [Decrease] from previously approved Change Orders No. N/A to No. N/A : Substantial completion (days): <u>0</u> Ready for final payment (days): <u>0</u>
Contract with [Increase] [Decrease] from previously approved Change Orders \$ <u>\$2,399,000.00</u>	Contract Times prior to this Change Order: Substantial completion (days or date): <u>January 31, 2016</u> Ready for final payment (days or date): <u>February 28, 2016</u>
[Increase] [Decrease] of this Change Order \$ <u>\$25,047.00</u>	[Increase] [Decrease] Time of this Change Order: Substantial completion (days or date): <u>14</u> Ready for final payment (days or date): <u>14</u>
Contract Price incorporating this Change Order: \$ <u>\$2,424,047.00</u>	Contract Times with all approved Change Orders: Substantial completion (days or date): <u>February 14, 2016</u> Ready for final payment (days or date): <u>March 13, 2016</u>

RECOMMENDED: By: _____ Engineer (Authorized Signature)	ACCEPTED: By:  Owner (Authorized Signature)	ACCEPTED: By: _____ Contractor (Authorized Signature)
Date: _____	Date: <u>7-31-15</u>	Date: _____
Approved by Funding Agency (if applicable): _____		Date: _____

From: Brian Viall
Sent: Tuesday, June 16, 2015 9:16 AM
To: 'Steve Himmelspach'
Cc: Laith Hintz
Subject: Mandan WWTF Int Opt - BioFilter Coatings MEMO

Categories: Filed by Newforma

Steve,

As requested:

Please be aware that, with your verbal approval given Thursday, June 11, 2015, we directed Swanberg Construction to change all interior coatings in the BioFilter to "System 11" as outlined in Spec' Section 09 90 02. Recall that this additional work carries with it a cost increase of \$3,330.00. This cost increase will be included in a future change order.

If you have any questions, please let me know.

Thanks,

Brian Viall
Engineer in Training
Advanced Engineering and
Environmental Services, Inc. (AE2S)
1815 Schafer St., Suite 301
Bismarck, ND 58501
Brian.Viall@AE2S.com
www.ae2s.com
Voice: 701.221.0530
Fax: 701.221.0531

From: Brian Viall
Sent: Monday, June 29, 2015 9:51 AM
To: 'Mark Swanberg'; Laith Hintz
Cc: Beau
Subject: RE: man hole joint caulk Mandan project

Categories: Filed by Newforma

Mark,

I reviewed this pricing with Steve H. from the Mandan WWTF and he accepted the painter's proposal to use the Polysulfide Caulking for the joints in both manholes for \$534.00.

Thanks,

Brian Viall
Engineer in Training
Advanced Engineering and
Environmental Services, Inc. (AE2S)
1815 Schafer St., Suite 301
Bismarck, ND 58501
Brian.Viall@AE2S.com
www.ae2s.com
Voice: 701.221.0530
Fax: 701.221.0531

From: Mark Swanberg [<mailto:mark@swanbergconstruction.com>]
Sent: Thursday, June 25, 2015 9:21 PM
To: Brian Viall; Laith Hintz
Cc: Beau
Subject: FW: man hole joint caulk Mandan project

The cost to caulk the manholes joints per your request will be \$534.00
If submittal information is required the cost will be 654.00
Please advise if this is acceptable and provide a contract modification

Mark Swanberg

President

Swanberg Construction, Inc.
PO Box 728
Valley City, ND 58072
(701) 845-6946

From: MPCI - Rick Mongan [<mailto:rickmongan@gwestoffice.net>]

Sent: Thursday, June 25, 2015 4:42 PM

To: mark@swanbergconstruction.com

Cc: 'Mongan Paint'

Subject: man hole joint caulk Mandan project

Mark,

We propose to use Thiokol 2235M polysulfide caulk to the joints in the manholes We can do this for \$481.00

Product data sheet can be found at www.polyspec.com

Thanks,

Rick Mongan

MONGAN PAINTING CO.,

720 Sleezer Road – PO Box 515

Cherokee, Iowa 51012

Phone: 712-225-0626 Fax: 712-225-0627

SWANBERG CONSTRUCTION INC.

**BUILDING-MUNICIPAL/HEAVY
CONTRACTORS**

Phone: (701) 845-6946
Fax: (701) 845-8999



250 Central Ave South
P.O. Box 728
Valley City, ND 58072

July 7, 2015

AE2S
1815 Schafer St. Ste. 301
Bismarck, ND 58501

Re: Mandan WWTF Interim Optimization Improvements WCD G-3
Mandan, ND

Gentlemen:

The following is a cost breakdown to provide and install duck bill and vacuum relief valve per WCD G-3.

Material	\$813.00
Core hole	620.00
Labor	800.00
Subsistence & travel	<u>200.00</u>
Sub-total	2,433.00
Overhead, Profit, & Bond	<u>365.00</u>
Total Cost	<u>\$2,798.00</u>

All work to be completed from the outside of the chamber. No work inside the chamber.

Sincerely,

Mark Swanberg
Swanberg Construction, Inc.

SWANBERG CONSTRUCTION INC.

BUILDING-MUNICIPAL/HEAVY
CONTRACTORS

Phone: (701) 845-6946
Fax: (701) 845-8999



250 Central Ave South
P.O. Box 728
Valley City, ND 58072

July 17, 2015

AE2S
1815 Schafer St. Ste. 301
Bismarck, ND 58501

Re: Mandan WWTF Interim Optimization Improvements
Mandan, ND

Gentlemen:

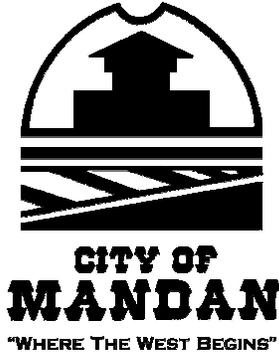
The following is a cost breakdown for costs as a result of valves not functioning. Also included is cost to install a pipe stop in existing 12" forcemain.

Labor	6,023.00
Equipment and Fuel	2,100.00
Insert a stop	<u>10,500.00</u>
Sub-total	18,623.00
Overhead, Profit, & Bond	<u>1,862.00</u>
	<u>\$20,485.00</u>
Per agreement deduct	-2,100.00
Total Cost	<u>\$18,385.00</u>

The cost to install 16 insert-a valve in existing 16" forcemain will be \$38,000 each.

Sincerely,

Mark Swanberg
Swanberg Construction, Inc.



Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: July 31, 2015
SUBMITTING DEPARTMENT: Planning and Engineering
DEPARTMENT DIRECTOR: Justin Froseth
PRESENTER: Justin Froseth, Planning and Engineering Director
SUBJECT: ND State Railroad Museum Loading and Unloading Zone Request

STATEMENT/PURPOSE: To consider allowing the Railroad Museum within the Mandan Industrial park area in NW Mandan to be allowed to sign and paint city curb as requested along 30th Avenue NW.

BACKGROUND/ALTERNATIVES: Our office received a request by the Railroad Museum to sign and paint to allow a loading and unloading zone in front of their main office. According to Jerry Olson with the ND Railroad Museum, they get groups of visitors with the groups sometimes being young kids or members with physical limitations. At times, when these groups arrive, parking is not available near the entrance which causes the drop-off of these groups to be a fair distance away, more than a block at times. This creates a potentially dangerous situation with the groups making their way to the main entrance and possibly mingling with the vehicle traffic which is often industrial in nature given that it is within the industrial park.

The planning and engineering department checked with other departments about allowing, none had any issue with allowing. Additionally, we required the Railroad Museum to get indication of approval from the property owner across the street to the east which they obtained as seen on the attached letter.

ATTACHMENTS:

- 1) Letter from ND State Railroad Museum including signature of property owner across 30th Avenue.
- 2) Area map showing approximate limits of request.

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

LEGAL REVIEW: All items forwarded to city attorney for his review.

Board of City Commissioners

Agenda Documentation

Meeting Date: August 4, 2015

Subject: ND State Railroad Museum Loading and Unloading Zone Request

Page 2 of 4

RECOMMENDATION: Our office recommends approving the request to paint curb and sign to indicate loading and unloading zone as requested.

SUGGESTED MOTION: I move to approve the request to paint curb and sign to indicate loading and unloading zone as requested by the ND State Railroad Museum.



July 9, 2015

The North Dakota State Railroad Museum at 3102 37th St NW in Mandan, ND would like to reserve part of the street on 31st Ave NW in front of our main building for Loading and Unloading of visitors only.

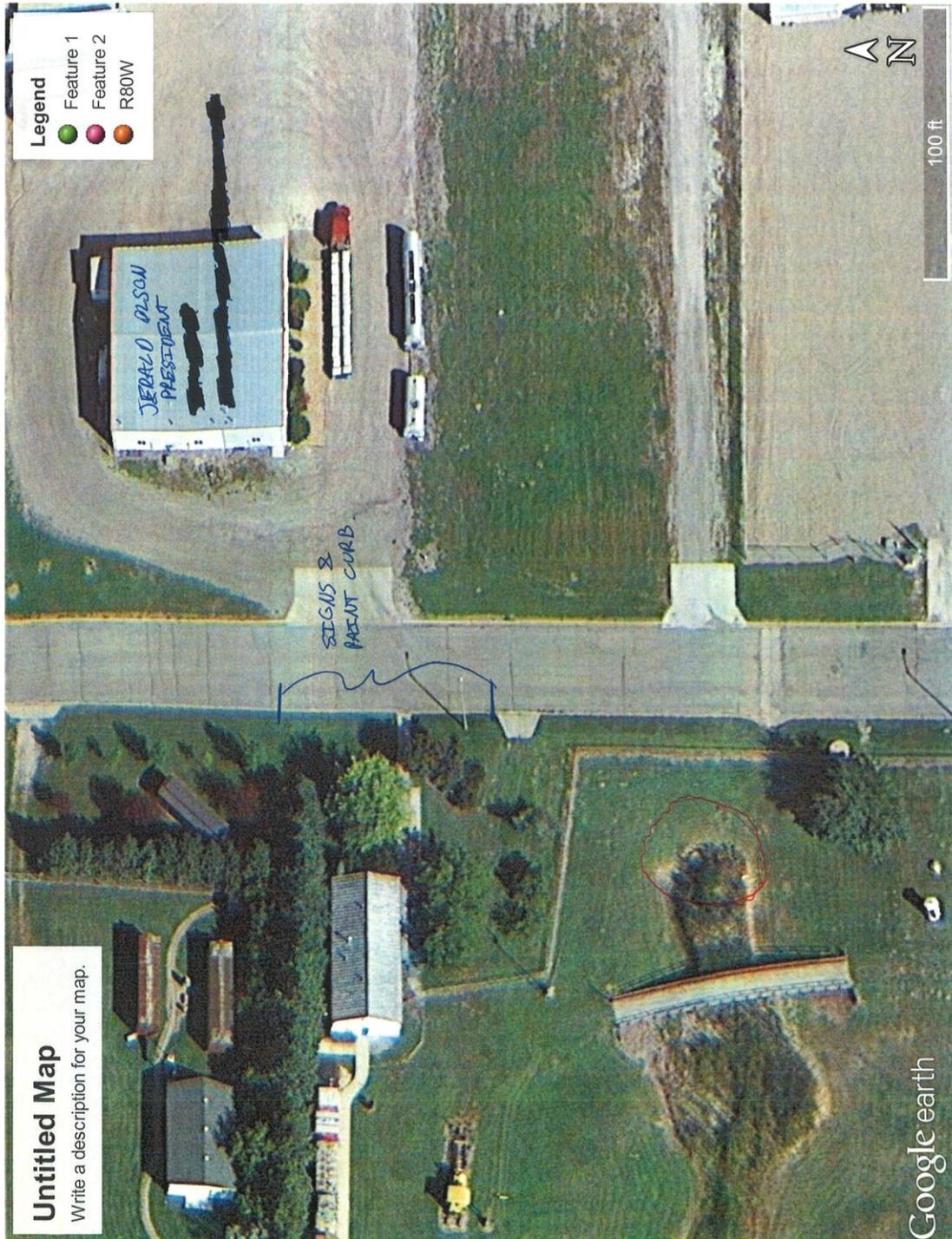
This area is 36' 10" south of the centerline of our sidewalk and 36' 10" north of the centerline of our sidewalk on the west side of 31st Ave NW. We plan to mark the curb and also install two signs stating 'Loading and Unloading Only'.

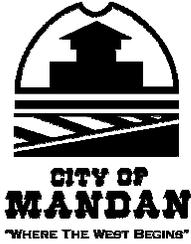
In accordance with a request from the city for the approval of this change from the adjacent property across the street, we are asking that if you agree to this change could you please so note on this document.

Gerald Olson
President, ND State RR Museum



WALLY E. SIEGEL, PROPERTY OWNER EAST OF 30TH AVE.





Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: July 31, 2015
SUBMITTING DEPARTMENT: Engineering & Planning
DEPARTMENT DIRECTOR: Justin Froseth
PRESENTER: Robert Decker, P.E., Principal Planner
SUBJECT: Consider for approval replat of Lots 1 & 2, Block 1, West Bay Estates 3rd Addition

STATEMENT/PURPOSE:

Request is to revise the lot line between these 2 lots.

BACKGROUND/ALTERNATIVES:

The proposal is to increase the size of lot 1 and shrink the size of lot 2.

Access for both lots will be via an existing access and utility easement along the south boundary of each lot.

All utilities are available to both lots.

ATTACHMENTS:

1. Location Map
2. Draft Plat

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

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

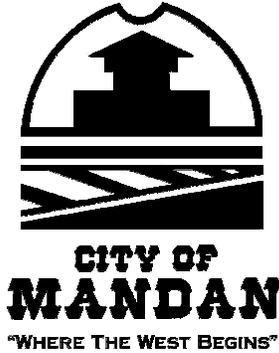
RECOMMENDATION:

Recommend approval.

SUGGESTED ACTION:

Move to approve replat of Lots 1 & 2, Block 1, West Bay Estates 3rd Addition





Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: August 4, 2015
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Contract for Improvements to Beanery

STATEMENT/PURPOSE: To consider contracts for improvements to the Mandan Beanery.

BACKGROUND/ALTERNATIVES: At the July 21, 2015 City Commission meeting, funds were approved for improvements to the Beanery. The improvements include: 1) restoration of wood windows, 2) new exterior storm windows, 3) masonry cleaning and minor tuckpointing 4) attic insulation, and 5) prep and paint exterior woodwork.

A preconstruction meeting was held with the architect, representatives of the North Dakota Department of Transportation (ND DOT), contractor and City and Mandan Progress Organization representatives on August 3, 2015.

A portion of this project is being funded through a ND DOT Grant for preservation improvements and the contractor, Paulson Contracting, was approved by ND DOT on August 3, 2015. Therefore the contract is now before the city commission for your consideration.

ATTACHMENTS: Contract is 64 pages, and available upon request.

FISCAL IMPACT: Approval of Visitors Funds at the July 21st meeting.

STAFF IMPACT: minimal

LEGAL REVIEW: City Attorney Brown has reviewed the contract.

RECOMMENDATION: I recommend approval of the contract between the City of Mandan and Paulson Contracting for improvements to the Northern Pacific Beanery (Beanery) as proposed.

Board of City Commissioners

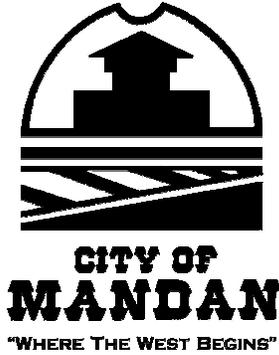
Agenda Documentation

Meeting Date: August 4, 2015

Subject: Contract for Improvements to Beanery Acquisition

Page 2 of 2

SUGGESTED MOTION: I move to approve the contract between the City of Mandan and Paulson Contracting for improvements to the Northern Pacific Beanery (Beanery) as proposed.



Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: July 27, 2015
SUBMITTING DEPARTMENT: Business Development & Communications Department
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Renaissance Zone Committee Application

STATEMENT/PURPOSE: To consider a recommendation by the Mandan Renaissance Zone Committee regarding approval of an application.

BACKGROUND/ALTERNATIVES: The Mandan Renaissance Zone Committee met July 27, 2015, to consider an application for lease of space in a building constructed as a Renaissance Zone project. The application by Icon Architectural Group, LLC, is for lease of 943 square feet of office space plus common area in 100 Collins Avenue, otherwise known as Collins Place.

Icon will initially have one full-time licensed architect working in the office. The individual has been working for Icon the last two years from his Mandan home. The firm hopes to add two more full-time and two part-time employees in the next five years to include another architect, a drafter and office assistants.

Mandan benefits from the project through attracting a business that increases professional services available in the community, increased job opportunities and by filling a vacant commercial space.

ATTACHMENTS: Application. Certificate of good standing from the N.D. Tax Department is pending.

FISCAL IMPACT: Icon's estimated state tax exemption on income derived from business activity in the building is \$800 annually for a projected five-year benefit total of \$4,000.

STAFF IMPACT: Minimal staff time is required for application processing and follow-up.

LEGAL REVIEW: The entrance to the space must have an automatic door opener per local ordinance.

RECOMMENDATION: The Mandan Renaissance Zone Committee voted 7-0 to recommend approval of the lease by Icon Architectural Group of space at 100 Collins Avenue as a Renaissance Zone project with the five-year 100% state income tax exemption, contingent upon receipt of a certificate of good standing from the N.D. Tax Department.

SUGGESTED MOTION: I move to approve the application for lease by Icon Architectural Group of space at 100 Collins Avenue as a Renaissance Zone project with the five-year 100% state income tax exemption.



RENAISSANCE ZONE PROJECT APPLICATION

A Renaissance Zone project must be approved by the Mandan Renaissance Zone Committee, Mandan City Commission and the N.D. Commerce Department — Division of Community Services before the qualifying event occurs (purchase, rehabilitation, lease or new construction). Submit applications to the City of Mandan Business Development Office, 205 Second Avenue NW, Mandan, ND 58554, phone 701-667-3485.

APPLICANT INFORMATION

1. Type of project

- Commercial/Business
 Residential

2. Name of applicant(s)/or business name ICON Architectural Group, LLC

Tax identification or social security number (both for joint filers)

30-0709496

Legal name (if different than trade name) _____

Type of entity (for commercial/ business applications)

- Partnership
 Corporation
 Subchapter S corporation
 Cooperative
 Sole proprietorship
 Limited liability company
 Limited liability partnership

3. Mailing address 4000 Garden View Dr STE 101, Grand Forks ND 58201

4. Phone number 701-772-4266

5. E-mail address faithej@iconarchitects.com

* PROJECT INFORMATION

6. Street address of proposed project 100 Collins Ave, Mandan ND 58554

7. Legal description Lot 11, 12, 13, 14, 15, Original Town, now City of Mandan
Morton County ND.

8. Current owner (if different than applicant) EVI Collins Place, LLC

9. Current use of property Commercial Rental

10. Parcel size (in square feet) _____

11. Building floor area (in square feet) 943 square feet

12. Type of project

- New construction
 - Purchase with improvements
 - Rehabilitation
 - Leasehold improvements
 - Lease
 - New
 - Expansion – additional square footage _____
 - Continuation of a lease
- If a lease project, does it involve relocation of a business from one location in the city's Renaissance Zone to another location in the Renaissance Zone?
- Yes
 - No

13. Project description (scope of work including breakout of capital improvements)
Architectural & Engineering Services

14. Current true and full value of the building Not applicable

15. Total estimated cost of improvements (attach cost estimates) not applicable
Note: Any grant funds may not be counted in determining if the cost of improvements or rehabilitation meets or exceeds the minimum requirements.

16. Estimated value of building after improvements have been completed not applicable

17. Estimated property tax benefit (annually) not applicable (five years) not applicable

18. Estimated state income tax benefit (annually) \$800.00 (five years) \$4000.00

Is the entity subject to the financial institution tax (NDCC 57-35.3)?
 Yes
 No

19. Describe how the project benefits the community (Examples: Business created, expanded or retained, additional jobs created, additional products or services available, improved property, etc.)

Our office presence will create new jobs. Provide architectural and engineering services for the Bismarck/Mandan area. We will employ 1 full time employee now & hope to add up 2 more full time w/ 2 part time employees in the next 5 yrs.
2 full time Licensed Architects
1 full time Drafter
2 part time office assistants.
We will also fill a corresponding office space.

20. Project timeline including anticipated start and completion dates.

upon Approval

21. Does this project involve historical preservation or renovation?

- Yes
 No

For projects that involve historical preservation or renovation, but are not part of a rehabilitation project, provide a description of the work and the estimated costs. A **letter of approval from the Historical Society is required to claim any historical tax credits either on a rehabilitation project or renovation.** Information for historical properties may be obtained by contacting the Historical Society at: (701) 328- 2666.

22. Evidence that the taxpayer is current on local and state taxes?

- Yes
 No

Attach copy of certificate of Good Standing from the N.D. Tax Department and proof of payment of current real estate taxes such as a copy of a receipt from the Morton County Treasurer's Office.

23. For residential projects, please provide evidence that the home is the taxpayer's primary residence.

SUMMARY OF ATTACHMENTS

Documents to be submitted along with application:

- Certificate of Good Standing from N.D. Tax Commissioner
- Proof of payment of current real estate taxes
- Contractor(s) detailed cost estimate(s) — for improvements, rehab or new construction with capital improvements delineated as compared to non-capital improvements. Capital improvements include, but are not limited to, replacement or updating of roof, foundation, structure, siding, windows, doors or other weatherization improvements, electrical, plumbing, heating, ventilation or central air conditioning. Non-capital improvements are items such as floor coverings, wall treatments, cabinets, furnishings, and window treatments.
 - o Rehabilitation
 - Commercial — must demonstrate that the proposed re-investment is at least 50 percent of the current and true value of the, of which not less than 80 percent will be used for capital improvements
 - Residential — must demonstrate that the proposed re-investment is at least 20 percent of the current and true value of the building, of which not less than 80 percent will be used for capital improvements and no more than 20 percent for detached out buildings
 - o New construction — documentation that the proposed investment is at least \$55 per square foot
- Current photo(s) of property showing all sides of any existing building(s) — for improvements, rehab
- Site plan — for new construction or expansion
- Proposed building elevations, with exterior building material and color clearly indicated — for improvements, rehab, new construction
- Proof of primary residence — for residential applications
- Proof of benefit from property tax exemption — for leasehold improvement applications
- Business Incentive Agreement (see SF 59686 (11/2010))



Letter of Intent

RE: PROPOSAL TO LEASE approximately 1,000 SF at: 100 Collins Avenue, Mandan, ND 58554

We are pleased to present you this Letter Of Intent (LOI) which sets forth the terms on which EVI Collins Place, LLC hereafter known as "Landlord" and ICON, or assigns, hereafter known as "Tenant", is willing to negotiate a lease for the above referenced property. This LOI is not intended to be a binding contract, a lease, or an offer to lease, but is intended only to provide the basis for negotiations for a lease document between Landlord and Tenant.

Tenant agrees to lease from Landlord the space described below under the terms set forth:

Date: June 30, 2015

Landlord: EVI Collins Place, LLC

Tenant: ICON

Permitted Use: Architecture

Property Address: 100 Collins Avenue, Mandan, ND 58554

Designated Premises: 1,000 SF +/-, known as Suite ____

Rent Commencement: 90 days from the date of delivery (possession) or when tenant opens to the public, whichever occurs first.

Date of possession: Upon full execution of the lease by all parties, estimated to be August 15, 2015.

Term of Lease: 5 Years

Lease Guarantee: Personal Guarantee



Lease Options: One, 5- year term at market rent to be negotiated 180 days prior to the expiration of initial term.

Base Rent: Years 1-5: \$8.00/psf \$8,000.00 annually \$666.67 monthly

CAM/Operating Costs: Estimated at \$1.70/sf per year for calendar years 2015 & 2016. That is expected to increase to \$2.85/sf when full taxes come online. CAM (common area maintenance) include expenses such as real estate tax, property insurance, utilities, security, general building maintenance, lawn care and snow removal.

Total Monthly Rent: Year 1: \$808.34

Utilities: Master metered, part of CAM charges.

Security Deposit: \$2,000

Tenant Improvement Allowance: Tenant Improvement Allowance will be paid upon written request from Tenant after opening to the public and presentation of all lien waivers.

Tenant's Work: Tenant will perform all build-out necessary for the operation of their business.

Space Delivered Condition: The Premises will be in sound condition, and in compliance with all applicable federal, state and local codes. The structural elements, roof and building systems will meet all applicable federal, state, and local codes including handicap accessibility standards. Landlord will pour the concrete floor, sheetrock walls, provide HVAC unit, and 200 amp electrical panel.

Lease: Landlord will draft lease.



Special Provisions: For a period of thirty(30) days from the date of this LOI (time being of the essence), Landlord and Tenant shall each negotiate with the other in good faith to finalize, execute and deliver, within that period, a formal and final lease agreement consistent with the LOI.

If these terms are acceptable, please indicate so by executing a copy of this LOI where indicated below and returning one fully executed copy to the Agent below.

The terms of this proposal are approved this 1st day of July, 2015.

TENANT: _____

Name: TODD D. MITZEL Title: PRESIDENT, SCAN ARCHITECTURAL GROUP, LLC

The terms of this proposal are approved this _____ day of _____, 2015.

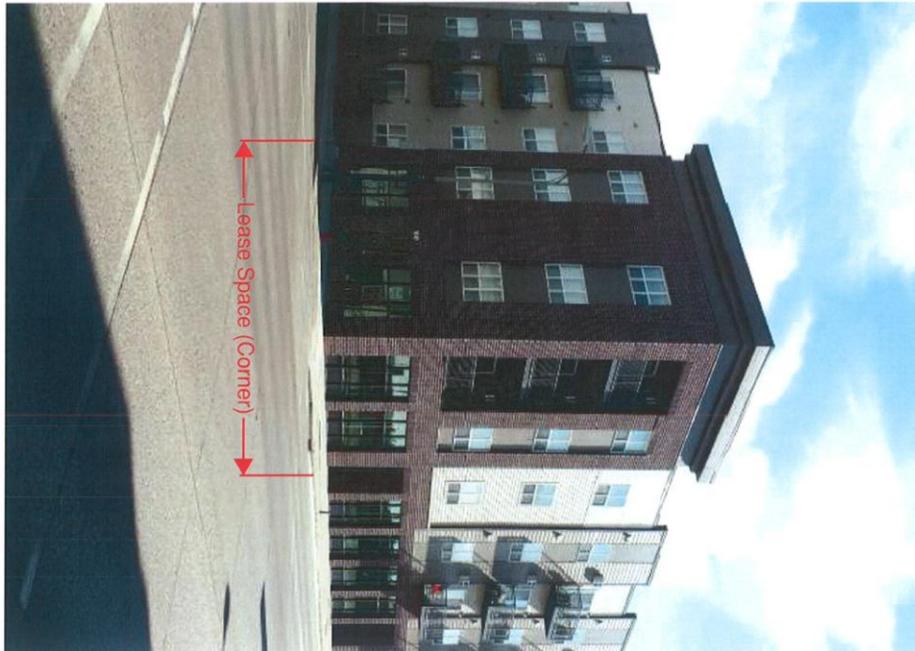
LANDLORD: _____

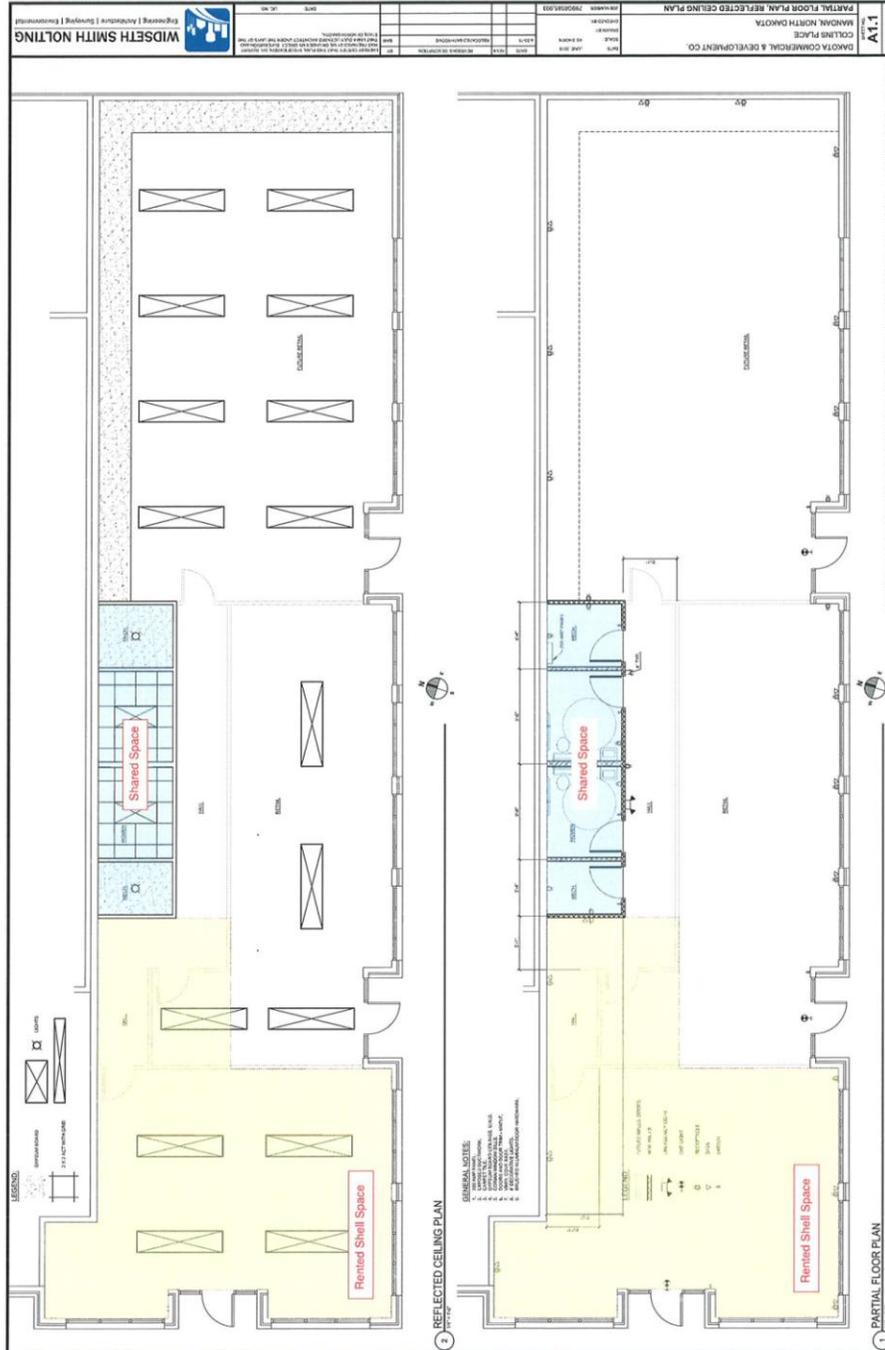
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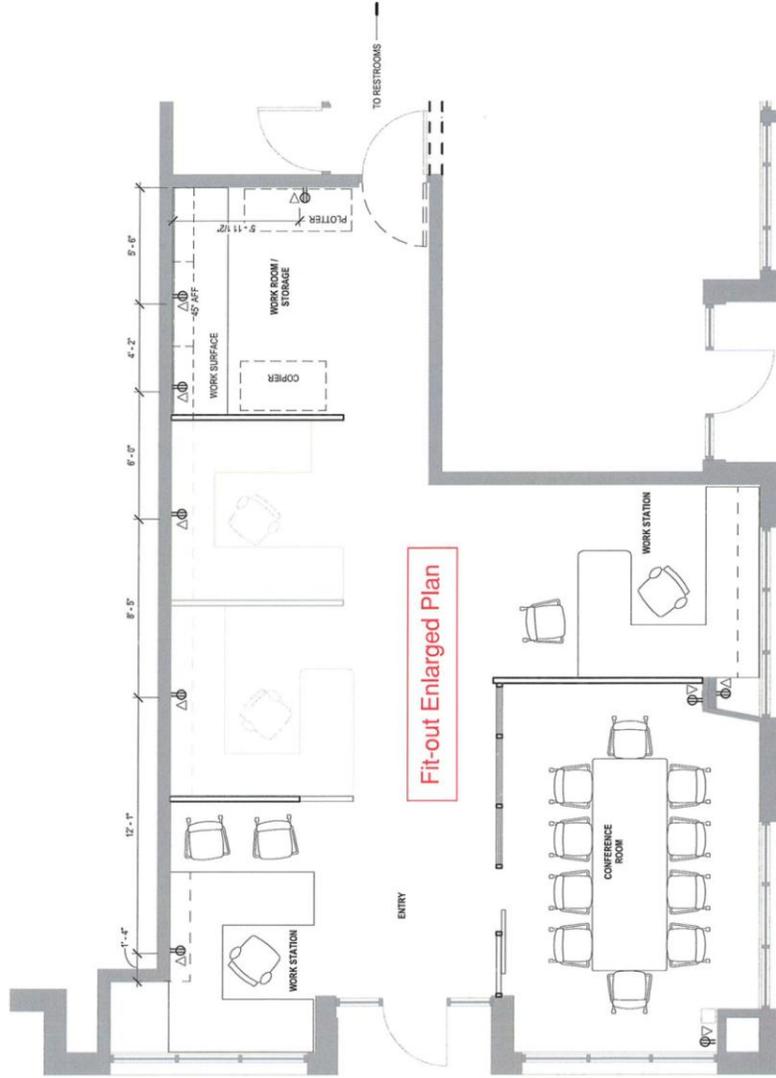
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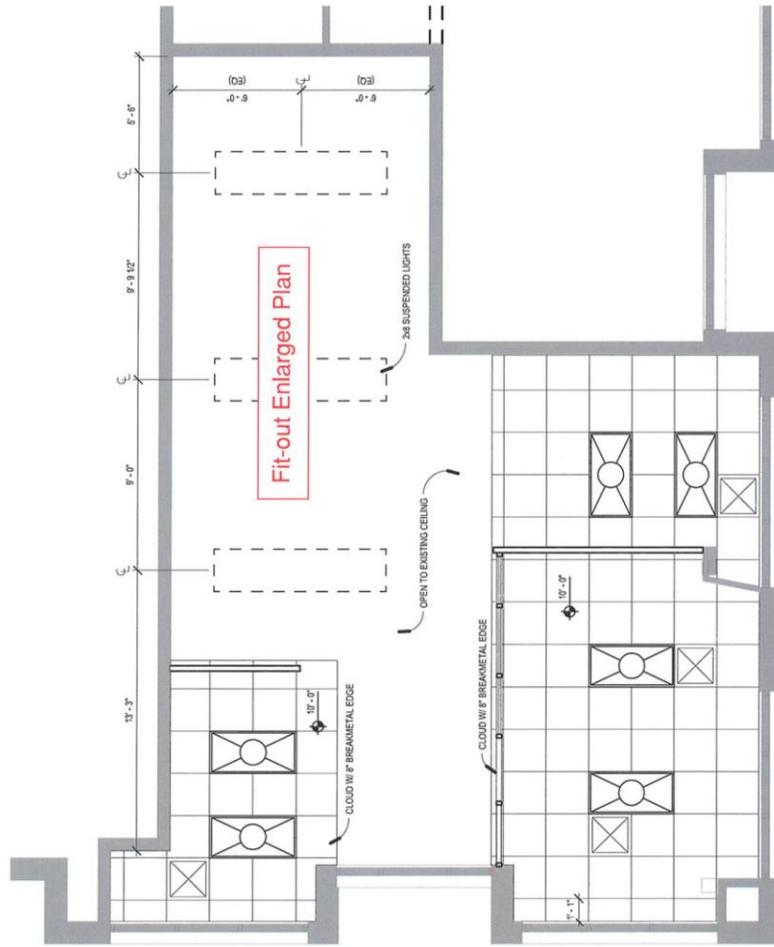


View of Southwest Building Corner











BUSINESS INCENTIVE AGREEMENT
 NORTH DAKOTA DEPARTMENT OF COMMERCE
 SFN 59686 (04/2012)

The RECIPIENT specified below has been approved to receive a business incentive from the state of North Dakota. Therefore, in fulfillment of the requirements of North Dakota Century Code § 54-60.1-03, the grantor of the business incentive (GRANTOR) and the entity to receive the business incentive (RECIPIENT) must enter into a **Business Incentive Agreement**. This Business Incentive Agreement provides project data and specifies the goals the RECIPIENT has agreed to meet in order to receive the state business incentive.

Should the value of this incentive be less than \$25,000, and should the RECIPIENT receive no additional incentives to bring the total to \$25,000 or more within one year, the reporting requirements outlined in North Dakota Century Code § 54-60.1-05, and in this agreement, will not go into effect.

Grantor

Name of GRANTOR <i>City of Mandan</i>	On Behalf Of		
Address <i>205 Second Ave NW</i>	City <i>Mandan</i>	State <i>ND</i>	Zip Code <i>58554</i>

Recipient

Name of RECIPIENT Business <i>ICON Architectural Group, LLC</i>	Also known as <i>ICON</i>		
Mailing Address <i>4000 Garden View Dr STE 101</i>	City <i>Grand Forks</i>	State <i>ND</i>	Zip Code <i>58201</i>
Street Address	City	State	Zip Code
Main Contact Person <i>Faith K Jensen</i>	Email Address <i>faihej@iconarchitects.com</i>		
Business Classification of RECIPIENT (3 digit NAICS code) <i>541-Professional, Scientific & Technical Services</i>			

Location of RECIPIENT prior to receiving this business incentive (if different from above)

Street Address	City	State	Zip Code
Parent Company of RECIPIENT (if any)			
Street Address	City	State	Zip Code

Project Information

(For office use only) Project Number	File Number	Incentive Value <i>\$4,000</i>	Benefit Date <i>2015-2019</i>
Incentive Type <i>Reduction or deferral of tax or fee</i>			
Incentive Description <i>Renaissance Zone state income tax exemption</i>			
Is this incentive tax increment financing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
If yes, describe the type of district: <i>n/a</i>			
Project Description: <i>Icon Architectural group is going to lease 943 st in a building constructed as a Renaissance Zone project.</i>			

Board of City Commissioners
 Agenda Documentation
 Meeting Date: August 4, 2015
 Subject: RZ Application
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SFN 59686 (04/2012)
 Page 2

Public Purpose (check only one)

<input checked="" type="checkbox"/>	Assisting community development
<input type="checkbox"/>	Increasing tax base
<input type="checkbox"/>	Directly creating employment opportunities
<input type="checkbox"/>	Indirectly creating employment opportunities through increased economic activity
<input type="checkbox"/>	Job Retention (only in cases where job loss is specific and demonstrable)

Current Employment, Wages, Benefits and Compensation

Current Number of jobs (FTE's): 36	FTE Definition: For our reporting purposes, full time equivalent employees work 32 hours per week or greater. The exception is when a single position is filled by two people. In this instance each person needs to work 20 hours per week or greater to be considered an FTE. Please round total job numbers to the nearest half FTE (0.5 FTE).	
Average Hourly Wage 40	Value of Average Benefits Per hour \$8.00	Average Hourly Compensation (Wages plus benefits) \$33.36
<input type="checkbox"/> Seasonal	Explain	

* If this is a **new** business, check here and please enter 0 for jobs, wages, benefits and compensation. If this is an existing business with employees, please enter information that reflects your current status with regard to jobs, wages, benefits and compensation.

Annual Job Verification Contact

Name Lindsay Risko	Email lindsayr@iconarchitects.com	Phone 701-772-4266
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Goal Information

In exchange for the incentive provided by the GRANTOR, the RECIPIENT agrees to, within 2 years, (check only one) <input checked="" type="checkbox"/> Create Jobs <input type="checkbox"/> Retain Jobs <input type="checkbox"/> Neither create nor retain jobs**		in Mandan (Location)
Number of jobs (FTE's) to be created or retained: 3	FTE Definition: For our reporting purposes, full time equivalent employees work 32 hours per week or greater. The exception is when a single position is filled by two people. In this instance each person needs to work 20 hours per week or greater to be considered an FTE. Please round total job numbers to the nearest half FTE (0.5 FTE).	
Average Hourly Wage \$25.36	Value of Average Benefits Per hour \$8.00	Average Hourly Compensation (Wages plus benefits) \$33.36

**If 'neither' is check marked, please enter 0 for number of jobs, wages, etc. Even RECIPIENTS with no job goals must file recipient reports as described on page 3 of this document. Any increase in jobs, wages, benefits or total compensation will be reported as a bonus above and beyond project goals.

Board of City Commissioners
 Agenda Documentation
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 Page 3

Business Owners or Shareholders

List the names and addresses of any individuals or shareholders owning twenty percent (20%) or more of this business.

Owner or Shareholder	Mailing Address	City	State	Zip
Todd D Mitzel	1502 Kings View Drive	Grand Forks	ND	58201
Mike R Kuntz	275 Elks Drive	Grand Forks	ND	58201
Scott Fournier	1466 Robert Circle	Grand Forks	ND	58201

In addition to meeting the goals outlined in this document, the RECIPIENT agrees to the following terms as specified by N.D.C.C. §54-60.1:

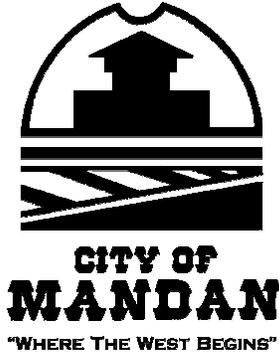
1. The RECIPIENT shall continue operation in the jurisdiction in which the business incentive is used for five years or more after the benefit date.
2. RECIPIENT reports requesting current job, wage and benefit information will be mailed to the RECIPIENT by the GRANTOR. The RECIPIENT shall complete, sign and return this annual recipient report to the GRANTOR on or before March 1 of each year for two years or until the goals specified in the Business Incentive Agreement have been met, whichever is later.

If no report is received by March 8th, the GRANTOR shall mail the RECIPIENT a warning letter. The RECIPIENT then has 14 days from the postmarked date of that warning letter to file a report. If the recipient report is still not received, the RECIPIENT agrees to pay \$100 to the GRANTOR for each subsequent day until the report is filed. The maximum penalty under this section may not exceed one thousand dollars (\$1,000).

3. If, after 2 years, the job and compensation goals listed in this document are not met, the RECIPIENT shall continue to provide recipient reports to the state grantor until the incentive is repaid. At a minimum, a recipient that fails to meet business incentive agreement goals shall pay back the value of the incentive to the GRANTOR prorated to reflect any partial fulfillment of the job and compensation goals. There is an exception to this financial obligation for any unmet goals that result from an act of God or terrorism.
4. This Business Incentive Agreement shall only be modified or extended by the GRANTOR pursuant to N.D.C.C. §54-60.1-04.
5. If the terms of this Business Incentive Agreement are not met, RECIPIENT shall not receive a business incentive from any GRANTOR for a period of five years from the date of failure or until RECIPIENT satisfies its repayment obligation.

By signing this document, RECIPIENT agrees to the terms noted herein, verifies that it has not failed to meet the terms of any business incentive agreement in the last five years and confirms that it has disclosed, in Attachment "A" of this agreement, all additional financial assistance received from state or political subdivision GRANTORS for this project.

GRANTOR	RECIPIENT
Authorized Signature	Authorized Signature
Title <i>Mayor</i>	Title <i>Partner</i>
Date	Date <i>7/17/15</i>



Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: July 31, 2015
SUBMITTING DEPARTMENT: Business Development & Communications Department
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: RZ Recommendation on 100 Collins Ave Exemption

STATEMENT/PURPOSE: To consider a recommendation by the Mandan Renaissance Zone Committee regarding the property tax exemption for RZ Project No. 53, the construction of 100 Collins Avenue.

BACKGROUND/ALTERNATIVES: The Mandan Renaissance Zone Committee met July 27, 2015. Among agenda items was to review the status of the office/retail space at 100 Collins Avenue as it relates to a clawback provision previously approved.

The project was approved by the City Commission on Aug. 20, 2013, for a two-year exemption on the apartment portion of the building. The apartment area accounts for 35,996 square feet (91.7%) of the building's 39,244 total square feet, but approximately 65% of its true and full value for 2015 of \$2,331,900.

The office/retail square footage was approved for a five-year property tax exemption if the space is leased or sold within one year of the issuance of the certificate of occupancy. If not leased or sold within one year, the exemption is to be cut to 50% for the same time period. If not leased or sold within 2 years, the exemption would be withdrawn. The certificate of occupancy for the building was issued Aug. 28, 2014. The office/retail square footage totals 3,248 square feet (8.3%) of the building's total area, but 35% or \$813,157 the building's total value.

Icon Architectural Group has committed to leasing approximately 1,000 square feet. This will likely leave approximately 2,248 or 5.7% of the building unoccupied by the first anniversary from issuance of the building's certificate of occupancy.

ATTACHMENTS: None

FISCAL IMPACT: If the Renaissance Zone Committee's recommendation for reducing the building's exemption for 2015 by a percentage equal to the unoccupied space's prorated share of the building's value is approved, it would be a reduction of about 17.5%, or in other words an 82.5% exemption, rather than a full 100% exemption for 2015. Using the building's 2015 true and full value of \$2,331,900 and the 2014 property tax levy of 314 mills, this would be equal to property taxes being required on the retail/office space of approximately \$6,407.

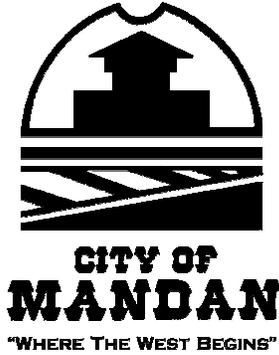
Implementation of the change will require assistance from our City Assessor in gaining approval from the County Tax Equalization director because values and exemptions as of Feb. 1, 2015, already were submitted. The building's value was submitted to the county with zero exemption on the commercial portion of the building.

STAFF IMPACT: Minimal staff time will be required for follow-up.

LEGAL REVIEW: Attorney Brown has been asked to review this provision and recommendation.

RECOMMENDATION: The Mandan Renaissance Zone Committee voted 7-0 to recommend approval of reducing the property tax exemption on the retail/office space at 100 Collins Avenue by a percentage equal to the unoccupied space's prorated share of the building's value.

SUGGESTED MOTION: I move to approve the recommendation to reduce the property tax exemption on the Renaissance Zone project at 100 Collins Avenue for the retail/office remaining to be leased at one year from date of occupancy by a percentage equal to the area's prorated value of the building.



Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: July 30, 2015
SUBMITTING DEPARTMENT: Business Development & Communications Department
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Downtown Storefront Improvement Program Boundaries

STATEMENT/PURPOSE: To consider a recommendation by the Mandan Growth Fund Committee regarding expansion of the eligible area for the Downtown Storefront Improvement Program.

BACKGROUND/ALTERNATIVES: The Mandan Growth Fund Committee met July 29, 2015. Among agenda items was a review of boundaries for the Downtown Storefront Improvement District. Three buildings that are at least 30 years old or older that are located on the far end of East Main Street (beyond the north-south railroad tracks) are potentially for sale or lease. Some of the buildings in this highly visible area from business loop of I-94 could benefit from an exterior make-over and eligibility for the program may improve changes for sale and optimal use of the properties.

ATTACHMENTS: 1) Map of existing storefront boundaries (coincides with the Architectural Review Commission downtown core and fringe district boundaries), and 2) map of the proposed addition.

FISCAL IMPACT: Expansion of the boundaries could result in additional applications for matching funds.

STAFF IMPACT: Minimal staff time would be required to communicate the change to property owners and real estate agents.

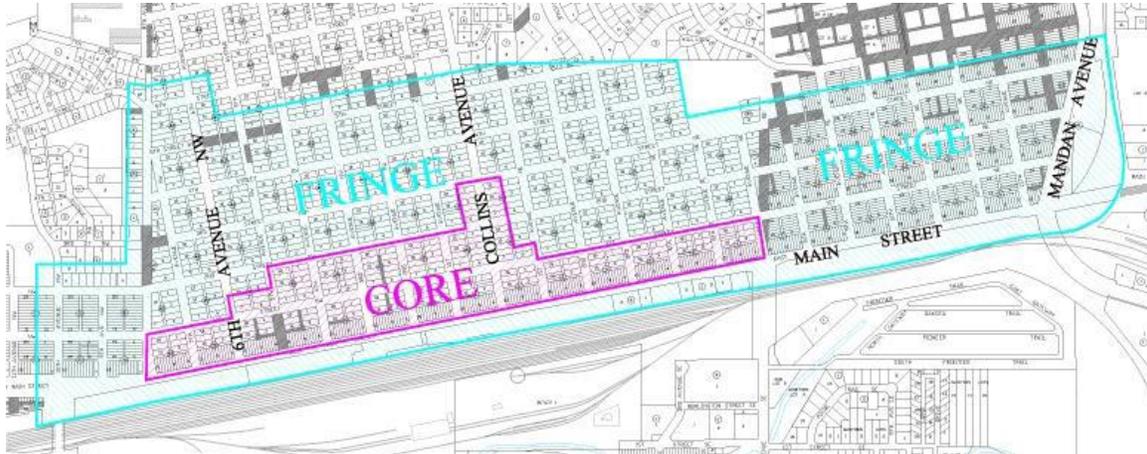
LEGAL REVIEW: Attorney Brown has reviewed the proposed change.

RECOMMENDATION: The Mandan Growth Fund Committee voted 7-0 to recommend approval of expanding the Downtown Storefront Improvement Program boundaries to include commercially zoned properties along East Main, Shady Lane and Missouri Drive to Second Street NE as illustrated by the map provided.

SUGGESTED MOTION: I move to approve the expansion of the Downtown Storefront Improvement Program boundaries to include the recommended area along and north of east Main Street as illustrated.

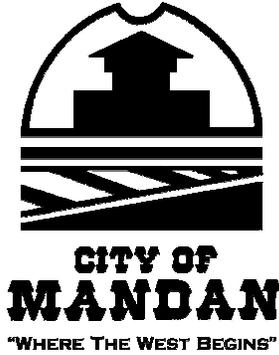
ATTACHMENTS

Current Downtown Storefront Improvement Program Boundaries — The building must be located in the Downtown Core or Downtown Fringe districts as defined Mandan Municipal Code 21-04-17.1 and 21-04-17.2 (see map).



Recommended Addition





Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: July 30, 2015
SUBMITTING DEPARTMENT: Business Development & Communications Department
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Barch Properties, LLC Application for Memorial Highway Storefront Improvement Program

STATEMENT/PURPOSE: To consider a recommendation by the Mandan Growth Fund Committee for approval of a Memorial Highway Storefront and Landscape Improvement Program application.

BACKGROUND/ALTERNATIVES: The Mandan Growth Fund Committee met July 29, 2015. Among agenda items was consideration of the first application received to date for the Memorial Highway Storefront and Landscape Improvement Program.

Lindsay Barch of L. Barch Properties, LLC, has purchased the property at 4018 E Memorial Highway with plans for renovation and lease to his new business, Event Motorway, which will feature sales of late model import and luxury autos as well as some classic cars.

The estimated cost of the proposed storefront improvement project is nearly \$89,000. The application is for the maximum \$30,000 in matching funds. The application outlines plans to put a new façade on the building using a steel wall structure coated with EFIS.

The applicant is planning additional investment in interior building renovation including HVAC, electrical, plumbing, flooring, walls, insulation. There will also be upgrades to the parking lot, removal of an old pole sign near the roadway ditch and the addition of containerized plantings.

The building design received approval from the Mandan Architectural Review Commission on July 28, 2015.

ATTACHMENTS: Key excerpts of application. Full application with detailed cost estimates available upon request.

FISCAL IMPACT: The request is for \$30,000 in matching funds. An amount of \$200,000 was set aside in the Mandan Growth Fund (sales tax generated) for the Memorial Highway program upon approval Sept. 2, 2014.

STAFF IMPACT: Minimal staff time is required for application processing and finalization.

LEGAL REVIEW: Attorney Brown has reviewed the application. Per local ordinance, an automatic door is required on at least one entrance to the building. A business incentive agreement is also required for projects exceeding \$25,000 in assistance.

RECOMMENDATION: The Mandan Growth Fund Committee voted 7-0 (with two members absent) to recommend approval of the application for up to \$30,000 in matching funds for the storefront improvement project by L. Bartch Properties, LLC, at 4018 E Memorial Highway.

SUGGESTED MOTION: I move to approve providing up to \$30,000 in matching funds for the storefront improvement project by L. Bartch Properties, LLC, at 4018 E Memorial Highway.



STOREFRONT & LANDSCAPE IMPROVEMENT APPLICATION

PRIMARY CONTACT INFORMATION FOR THIS APPLICATION

Name: LINDSAY BARTON
Address: 2830 WILDERNESS CIRCLE RD BISMARCK 58103
Phone: 701-202-5818 Fax: _____
E-mail: lbarton@bis.midco.net

Applicant Name:
(name of person/entity
to receive grant) L BARTON PROPERTIES LLC
Property Owner: LINDSAY BARTON
Property Address: 4018 MEMORIAL HWY EAST
Architect/Firm:
(if applicable) _____

Description of Property

Current tenant(s): Commercial BUILDING IS EMPTY
Building History (if available): ORIGINALLY PURPOSE BUILT AS A WESTERN WEAR STORE, HAS BEEN A CONSTRUCTION COMPANY OFFICE, AUTO DEALERSHIP, AND RETAIL HOBBY STORE

Total Cost of Exterior Renovation & Landscaping: \$ 28,667.50 Forgivable Loan Amount of Requested: \$ 30,000.

Is the façade renovation part of a larger project?
Yes No, the façade is the only work I am doing

If yes, please describe comprehensive project.

THE FACADE IS PART OF A RENOVATION PROJECT THAT WOULD CONSIST OF A COMPLETE REMODEL, INCLUDES HVAC, ELECTRICAL, PLUMBING, PAVING, FLOORING, WALLS, INSULATION

Summary of Existing Condition of Façade and Site: (please attach pictures – Attachment 1)

BUILDING IS OUTDATED AND IN NEED OF REMODELING TO BRING IT TO A MODERN STANDARD. ALL SURFACES WITH EXCEPTION OF ROOF NEED ATTENTION.

Summary of Proposed Scope of Work: (materials, color schemes, etc.) Please attach colorized drawings that include pre- and post- rehab detail, and site plan if applicable, indicating specifically what will be modified and how (Attachment 2). Bids or official estimates from licensed commercial contractors or other providers of needed services and materials are required. If you have more than three components or separate contractor bids, please include a summary of costs. (Attachment 3)

THE CONCEPT IS TO USE STEEL STUD WALL STRUCTURE FOR FRONT FACADE AND SIDE WALLS COATED WITH EFIS. DRAWINGS ATTACHED SHOW ALUMINUM FRAMED DOORS AND WINDOWS. EFIS COATINGS ARE SMOOTH AND SEMI GLOSS USING OFF WHITE AND SILVER CHARCOAL COLORING.

How will your project complement Memorial Highway development and redevelopment efforts?

THIS REMODEL WILL BE CONSISTANT WITH THE NEW AND REMODELED FACILITIES ADJACENT TO OUR PROPERTY ON THE EAST END OF THE STRIP. ALL MODERN AND PROGRESSIVE DESIGNS WILL BE CONSIDERED IN PLANNING FOR THIS LOCATION. THIS ATTRACTIVE DESIGN SHOULD PROVE A REGIONAL DESTINATION.

For more information, call Business Development Director Ellen Huber at 701-667-3485.

Signature of applicant: [Signature] Date: 6-24-2015

Signature of property owner: _____ Date: _____
(if different than applicant)

Special Notices

- 1) Properties are eligible only once to receive Storefront & Landscape Improvement funds.
- 2) Voters in the Nov. 4, 2008, election in the City of Mandan approved an initiated ordinance that states, "Installation of electric handicap accessible entrance doors are required on every building open to the public that has received public funds in any form whatsoever." Any property receiving Storefront Improvement funds since Nov. 14, 2008, is subject to the requirement. Include an estimate for an automatic door at least for the main entrance if you do not have one.

East and South Elevations



Front View with Asphalt Parking in Foreground



Looking Northwest Across Subject

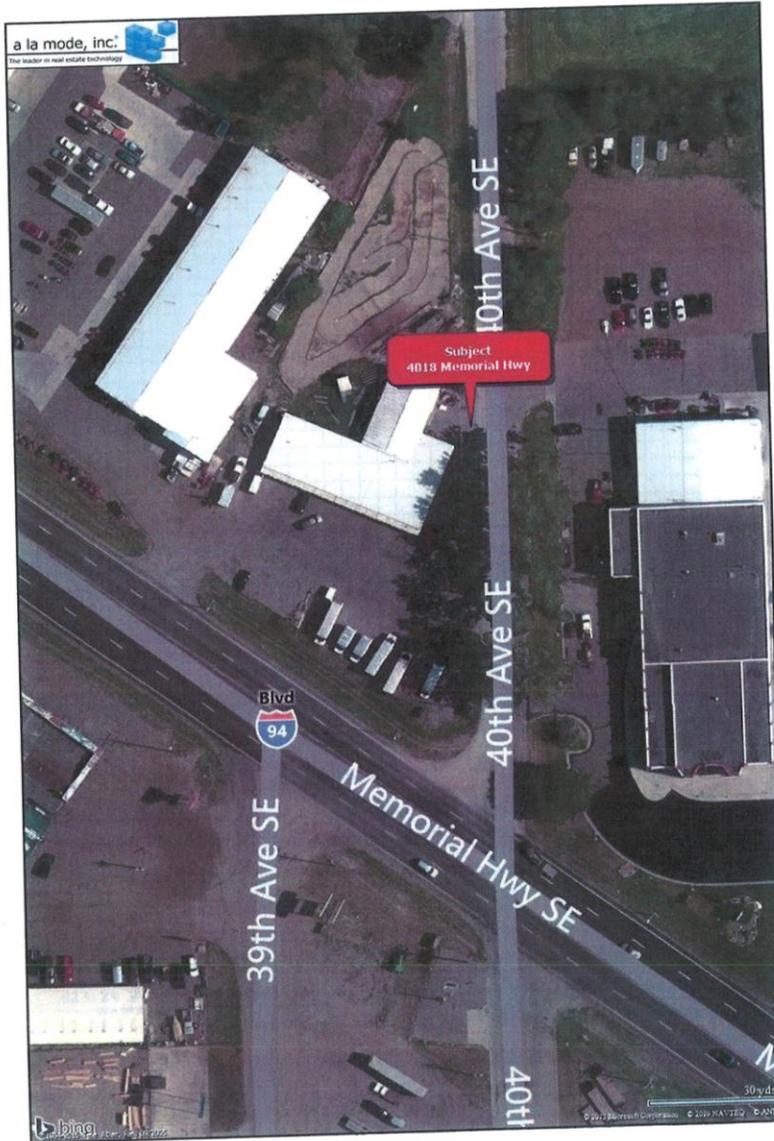


Looking West Along Memorial Highway in Area of Subject



Aerial Map

Borrower/Client				
Property Address	4018 Memorial Hwy	County	State	ND Zip Code 58554
City	Mandan			
Lender	Northland Financial			

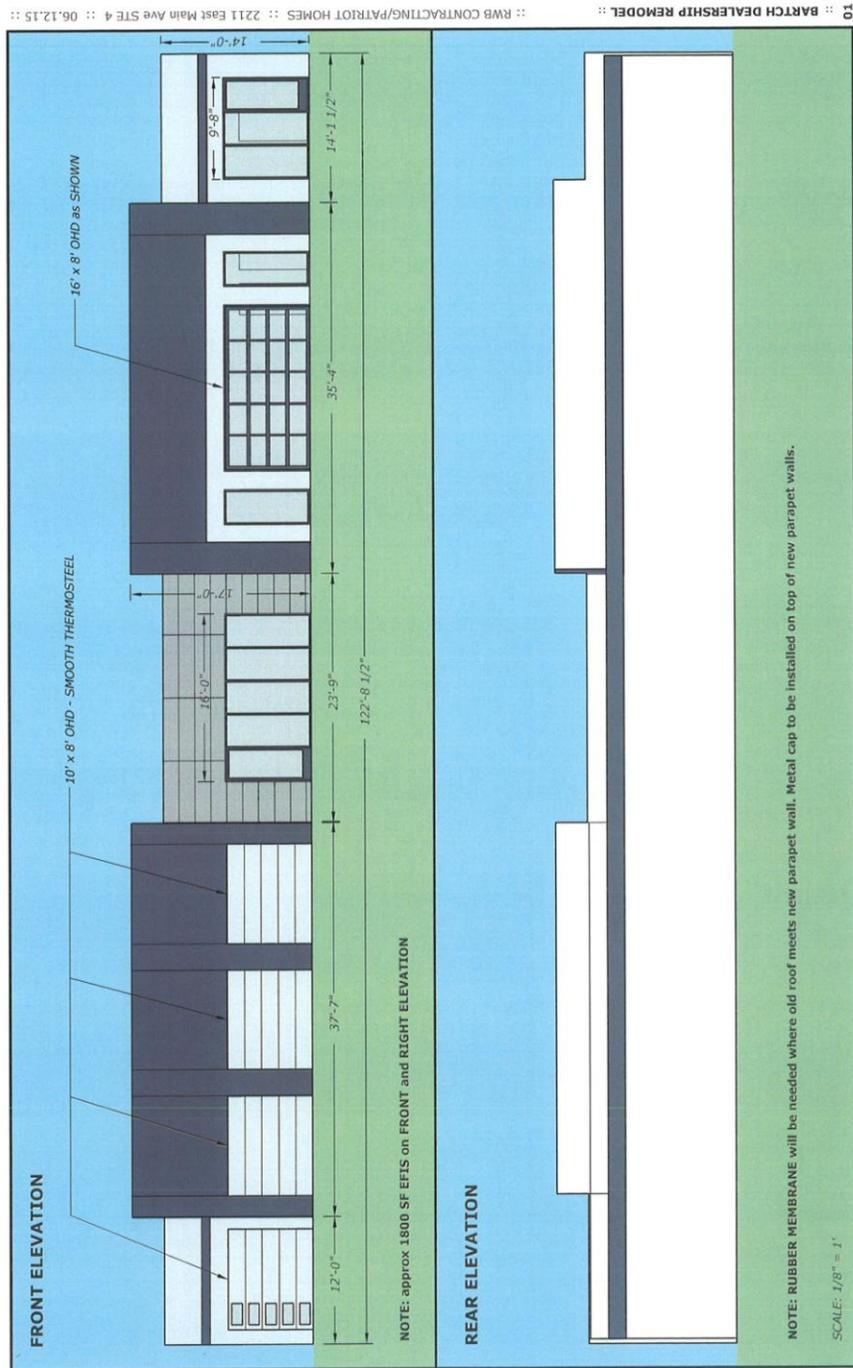


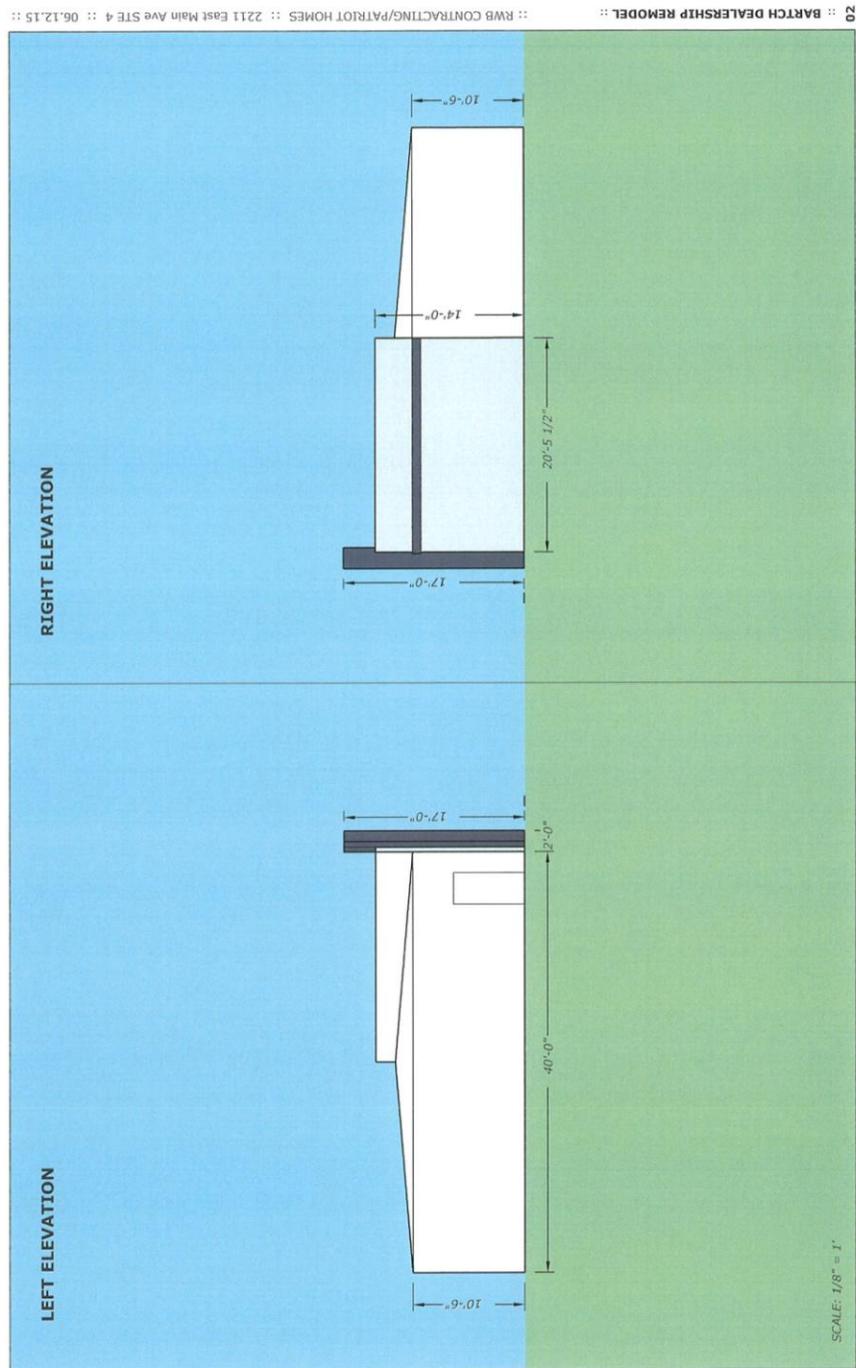


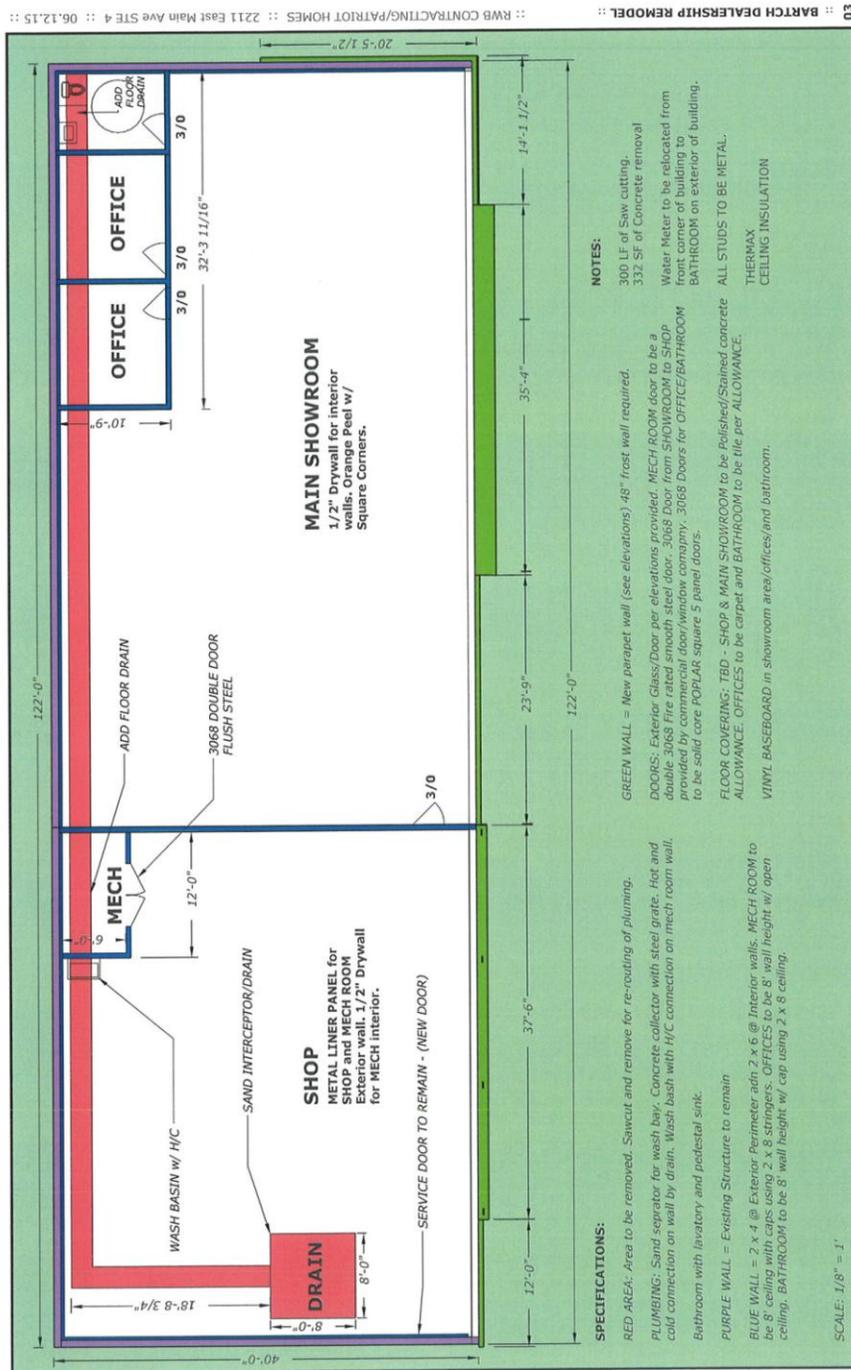
BARTCH DEALERSHIP

4018 MEMORIAL HIGHWAY - MARIETTA, IN

June 15, 2015 ::





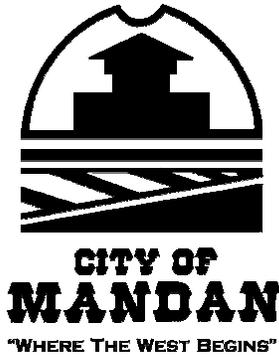




**STOREFRONT & LANDSCAPE
 IMPROVEMENT APPLICATION**

ATTACHMENT 3: BIDS & COST ESTIMATES

Summary of Proposed Expenditures		
Source of Estimate or Bid	Purpose	Estimated Cost
Concrete Structures BID	New Foundation/Flat	\$ 13,600
BISMARCK LUMBER BID	New Façade	\$ 4962.50
C & H Glass BID	NEW Façade Window	\$ 13,980.00
Central Door BID	NEW Façade Doors	\$ 3,200.00
PATRIOT HOMES BID	Frame New Façade	\$ 7,000.00
Mid west Doors/Garage	NEW Façade Doors	\$ 14,475.00
ScheRR Exterior	NEW Façade EIFS	\$ 23,230.00
MANN SIGNS	FACADE SIGNS	\$ 4,000.00
Total		\$ 88,667.50



Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: July 31, 2015
SUBMITTING DEPARTMENT: Business Development & Communications Department
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Storefront Project Modification for 112 2nd Ave NW

STATEMENT/PURPOSE: To consider a recommendation by the Mandan Growth Fund Committee regarding approval of a request for modification to a Storefront Improvement Project for 112 Second Avenue NW.

BACKGROUND/ALTERNATIVES: The Mandan Growth Fund Committee met July 29, 2015. Among agenda items was consideration of a request by Dot Frank to modify the components of a Storefront Improvement Application approved in June 2014 with an extension of the deadline for completion until Dec. 31, 2015, approved earlier this spring.

Reimbursement for storefront projects is subject to completion as outlined and approved in an application. Substantive changes to a project are to be approved by the Mandan Architectural Review Commission and Mandan Growth Fund Committee. Frank had submitted a request for modification to the plan for the main entrance/storefront component; to waive the commitment to painting the south, east and north sides of the building; and to waive the requirement to replace three boarded up window openings on alley facing sides of the building due to concerns about potential vandalism.

The MGF received an update on actions of the Mandan Architectural Review Commission regarding the project. MARC had considered the request at its July 28, 2015, meeting. Members voted unanimously (5-0 with 3 absent and one position vacant) to approve the request for modification to the storefront and main door, waive the painting of the three sides of the building, but to retain the requirement for replacement of the boarded up windows on alley facing sides of the building with windows or another agreed upon alternative.

ATTACHMENTS: Application and photos of current project status.

FISCAL IMPACT: Up to \$30,000 in matching funds was approved at a June 2014 meeting.

STAFF IMPACT: Minimal staff time is be required for project monitoring and finalization.

LEGAL REVIEW: Attorney Brown has reviewed the modification request and recommendation.

RECOMMENDATION: The Mandan Growth Fund Committee voted 7-0 (with 2 members absent) to recommend approval of the changes to the project in accordance with the Mandan Architectural Review action.

SUGGESTED MOTION: I move to approve the modified storefront improvement plan for 112 Second Avenue NW to allow for a change to the building's main entrance, to waive the painting commitment, while still requiring that boarded up windows be replaced with windows or other solution, the latter of which would be subject to approval of the Mandan Architectural Review Commission.

Board of City Commissioners
Agenda Documentation
Meeting Date: August 4, 2015
Subject: Storefront Improvement Boundary Expansion
Page 3 of 9

July 28, 2015

Mandan Architectural Review Committee
C/O Ellen Huber
205 2nd Ave NW
Mandan, ND 58554

Dear MARC Members,

Thank you for your support as I work to rehabilitate 112 2nd Ave NW in Mandan. The building has a storied past and will write new memories for Mandanites as we move into the future. I'm excited about the progress to-date, which already is turning heads and piquing interest.

As you can see in the enclosed photos, the following design elements have been implemented:

1. New Second Story Windows
2. New Steel Entry Doors in the Front and Back
3. The Removal of Boards and Return of Transoms and Windows
4. Brick Repair
5. Awning Installation
6. Sign Installation

As we've tackled improvements, we've run into surprises including the need for new brick to shorten up bathroom windows, the absence of the steel door pricing in the bids previously presented to the committee and the necessity to completely replace the roof. Those items added an additional \$45,448 to the building.

At this point in the project, we have the storefront windows and doors remaining, which I have attached a revised layout for. Based on numerous conversations with glass reps and installers, it was recommended that I bring the door forward to the first step back of the windows, which would include the installation of a new, automated door with transom, side windows and new front glass.

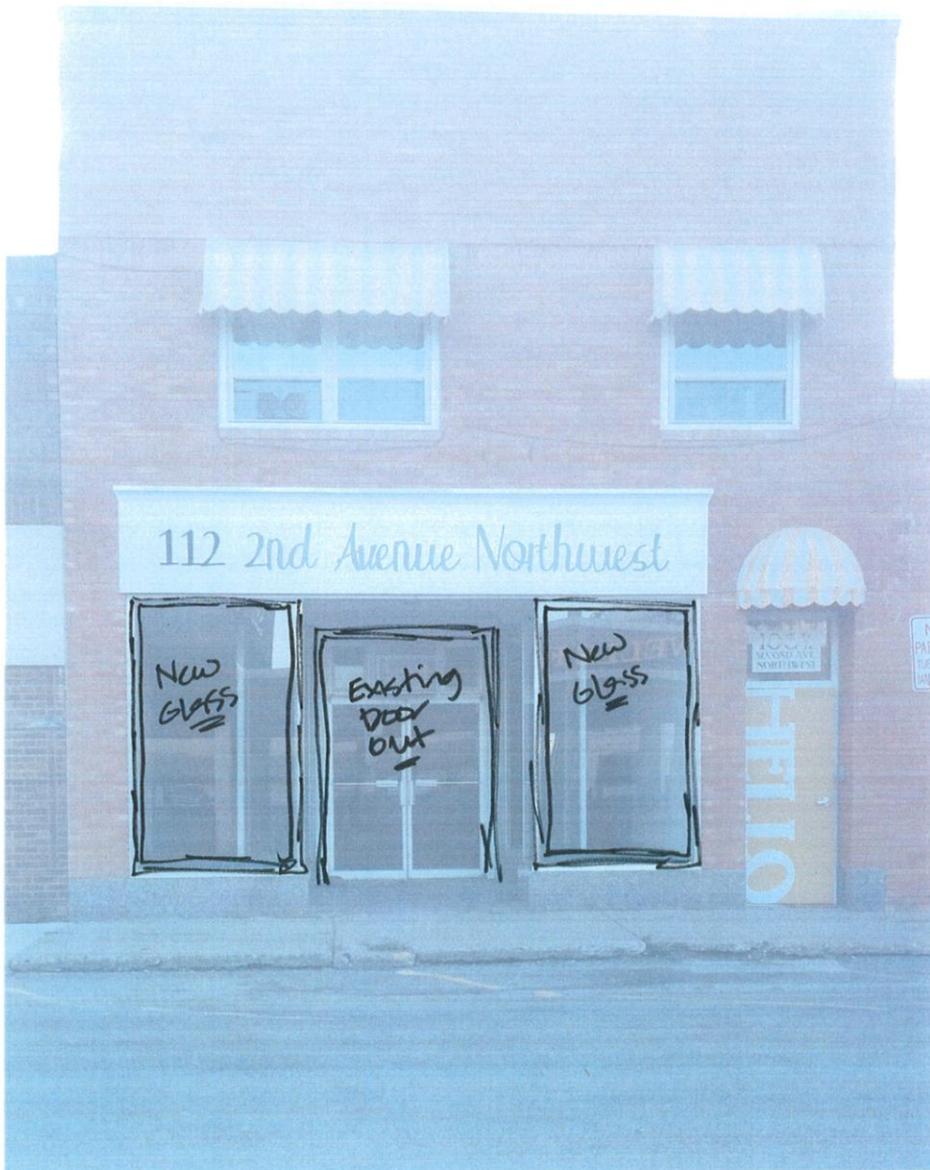
Please consider for approval the new design so I may proceed with installation. Additionally, I'm seeking approval to remove exterior painting from the application and the installation of rear windows. Those may come down the road, but for now the project with the aforementioned improvements has met and surpassed the grant limits.

I look forward to completing the improvements this year.

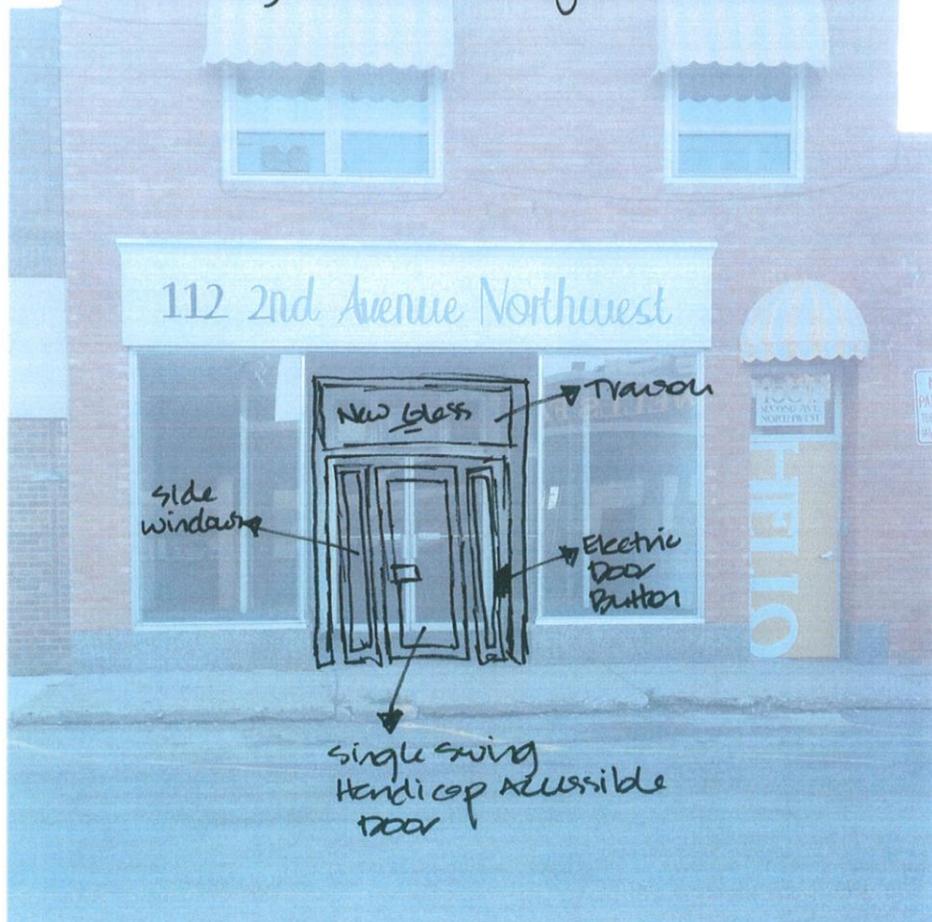
Respectfully,



Dot Frank



* New door brought forward to first setback of existing vestibule.
Intent to limit debris blowing into area, discourage smokers and create entry area. Interior glass eliminated.





112 Second Ave NW – Front or west facing side

As of July 27, 2015



South facing side view
from east/west alley



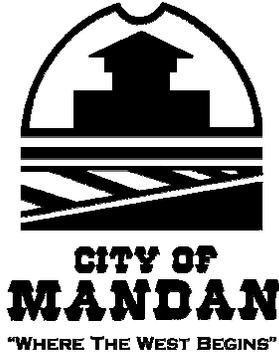
East facing side viewed
from east/west and
north/south alleys



North facing side viewed
from First Street







Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: July 30, 2015
SUBMITTING DEPARTMENT: Public Works
DEPARTMENT DIRECTOR: Jeff Wright
PRESENTER: Jeff Wright, Director of Public Works
SUBJECT: Consider creation of the Cemetery Advisory Committee.

STATEMENT/PURPOSE: Consider the creation of a Cemetery Advisory Committee.

BACKGROUND/ALTERNATIVES: The City Commission had Commissioner Tibke set up a Task Force Committee to go through the rules and regulations at the Mandan Union Cemetery with those new rules approved by the City Commission on July 21, 2015. As a result of the excellent work the committee members did with that task and their desire to further continue to improve the cemetery grounds, a request was made to create a Cemetery Advisory Committee.

The Committee would meet periodically to revisit the regulations and bring ideas and suggestions to city staff for review and implementation. At this point, the Task Force members would be considered for the committee, they would then decide on meeting frequency, designate responsibilities and roles, set up term length, etc.

I believe the committee could help cemetery staff by taking on some of the research needed to find solutions to issues and suggest improvements to the cemetery.

ATTACHMENTS: N/A

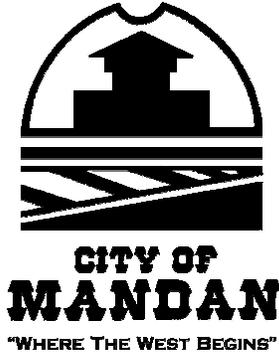
FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Recommend creating the Cemetery Advisory Committee with the members from the Task Force Committee.

SUGGESTED MOTION: Move to approve the creation the Cemetery Advisory Committee with the members from the Task Force Committee.



Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: July 31, 2015
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Land Lease City & Hirsch Floral Inc.

STATEMENT/PURPOSE: To consider lease agreement between City and Hirsch Floral, Inc.

BACKGROUND/ALTERNATIVES: The City of Mandan acquired property in downtown Mandan through the 2004 settlement with BNSF. The building currently housing in part Papa Murphy's is in the process of being sold and thus a new land tenant would become Hirsch Floral Inc.

Attached is the proposed lease is for 16,117 sq. ft. at \$.28 per foot. The lease per foot is what a similarly situated building on Main Street further to the east is currently paying BNSF. Term of the lease is 15 years with an option to renew for an additional 5 years, and a 1.5% escalator every year.

ATTACHMENTS: Proposed Lease

FISCAL IMPACT: Current lease was inherited with the land we received from BNSF, and a rate of \$2,400 per year, thus an increase to \$4,512/year.

STAFF IMPACT: minimal

LEGAL REVIEW: Attorney Brown has drafted the proposed lease

RECOMMENDATION: I recommend approval of the land lease to Hirsch Floral, Inc. as proposed.

SUGGESTED MOTION: I move to approve the land lease to Hirsch Floral, Inc. as proposed.



CITY OF MANDAN

MANDAN CITY HALL - 205 2nd Avenue NW
MANDAN, NORTH DAKOTA 58554

CITY DEPARTMENTS	
ADMINISTRATION	667-3215
ASSESSING/BUILDING INSPECTION	667-3230
ENGINEER/PLANNING	667-3223
FINANCE	667-3213
FIRE	667-3280
PERSONNEL	667-3217
POLICE	667-3250
PUBLIC WORKS	667-3240
SPECIAL ASSESSMENTS	667-3211
WASTE WATER PLANT	667-3270
WATER BILLING	667-3219
FAX	667-3223

Lease Agreement

City of Mandan
&
HIRSCH FLORAL, INC.

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4. <u>Term of Lease</u>	3
5. <u>Option To Renew</u>	3
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8. <u>Snow Removal</u>	4
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**LEASE AGREEMENT
HIRSCH FLORAL, INC.**

THIS LEASE AGREEMENT, entered into as of this ____ day of _____, 2015 between the **City of Mandan**, a municipal corporation, whose post office address is Mandan City Hall, 205 Second Avenue NW, Mandan, ND 58554, herein referred to as "**City**" and **Hirsch Floral, Inc.**, whose post office address is c/o Al Kuntz, 1951 149th Avenue NW, Bismarck, ND 58503, hereinafter referred to as "**Tenant**".

1. Recitals

1.1. City is the owner of the following described land located at 209 West Main Street, Mandan, ND 58554:

The East 48 feet of Lot 6 and the West 72 feet of Lot 7, Block 1, BNSF Commercial Park Third Addition to the City of Mandan, Morton County, North Dakota

and Tenant is the owner of a building located thereon:

1.2. Tenant desires to lease said land owned by City, for the purpose of operating a floral shop/greenhouse and pizza parlor.

1.3. This Lease and any amendments or addendums thereto is contingent upon the approval of the Board of City Commissioners and upon the execution of a personal guarantee by the Tenant or the execution by the Tenant of a Performance Bond.

1.4. The Parties desire to enter into a lease agreement defining all rights, duties, and liabilities relating to the premises.

In consideration of the mutual covenants contained in this Lease Agreement, the Parties agree to the following:

2. Description of Premises

2.1. City leases to the Tenant the following described land:

The West 72 feet of Lot 7, Block 1, BNSF Commercial Park Third Addition to the City of Mandan, Morton County, North Dakota

consisting of 16,117 square feet, and as shown on attached Exhibit "A". The certain premises leased to Tenant shall hereinafter be referred to as "Leased Premises".

3. Purpose of Lease and Tenant's Use of Premises

3.1. The Lease Property is to be used by Tenant for the purpose of operating a floral shop/greenhouse and pizza parlor, or upon approval of the governing board of the City, for other legitimate uses permitted within the CB Restricted Zoning District of the City of Mandan. The use of the premises is subject to the conditions contained in this Lease Agreement.

4. Term of Lease

4.1. The term of this lease is for a period of fifteen (15) years commencing as of August 1, 2015 and terminating on December 31, 2030. The Board of City Commissioners of the City of Mandan in approving a term of fifteen (15) years has by resolution determined that due to the nature of the property or its use and its appurtenant fixtures or equipment and necessary improvements, a longer term lease is required to assure the success of the enterprise or use and has further determined that because this was a commercial enterprise existing at the time of the City's acquisition of said land that the Board would not require a competitive bidding process for the lease of the premises.

5. Option To Renew

5.1. Thereafter the Tenant shall have the option to renew this Lease Agreement, for another five (5) year term.

5.2. To exercise an option to renew, Tenant must give City written notice of its intention to do so at least ninety (90) days prior to the date this Lease Agreement shall terminate or prior to the expiration date of any extension thereof.

6. Rent and Late Fees

6.1. Tenant shall pay as rent for the leased premises the initial sum of \$4,512.00 per year. The rent shall increase by 1 ½ % per year commencing January 1, 2017 and each January 1 during the term of this Lease.

6.2. Tenant will pay the rent in monthly installments payable on the first day of each month. Payments made later than ten (10) days after the due date will be assessed a \$20.00 late fee. Rent payments shall be made payable to the City of Mandan and sent to 205 2nd Avenue NW, Mandan, ND 58554.

7. Utilities and Services

7.1. Tenant shall pay for all utilities, including water and sewer service, gas, electricity, and garbage disposal.

8. Snow Removal

8.1. Tenant is responsible for snow removal on sidewalks and parking area.

9. Liability and Property Insurance

9.1. Tenant shall purchase and at all times maintain comprehensive general liability insurance containing standard coverage against any and all injury to person or property in an amount of at least \$1 million Dollars, and including what is commonly known as supplemental contract or extended coverage, which includes the City as a named insured.

9.2. Tenant shall purchase and at all times maintain during the terms of this lease agreement, at its own cost and expense, insurance coverage for blanket contractual liability which covers the Tenant's obligations and responsibilities under this Lease Agreement. In lieu of blanket contractual insurance, the Tenant may elect to provide to City a performance bond in the amount of Three Hundred Thousand (\$300,000.00) Dollars.

10. Waiver of Rights of Subrogation

10.1. The Tenant shall waive any and all rights of recovery, claim, action, or cause of action against the City and its officers, employees, and agents for any loss or damage that may occur to any person or property by reason of any cause which is insured against under the terms of the general liability, fire, personal property, or blanket contractual liability policies, regardless of cause or origin, including the negligence of the City, its officers, employees, or agents and to include in any standard liability policy a clause or endorsement to the effect that any such waiver shall not adversely affect or impair said policies or prejudice the right of the party granting such waiver to recover thereunder. The provisions of this paragraph are in addition to and not meant to limit the applicability of any other provision of this Lease Agreement.

11. Indemnification of City

11.1. Tenant agrees to defend, indemnify, protect and save the City against any and all claims, demands, suits, damages, liabilities, judgments, losses, and fines, penalties, costs or expenses of whatever kind or nature, including attorney's fees, directly or indirectly arising out of the Tenant's operation and use of the land, including but not limited to those relating to:

11.1.1. Injury to person and property;

11.1.2. Tenant's operating policies; rules and regulations;

11.1.3. Tenant's employment, contract and rental disputes;

11.1.4. Failure by Tenant to perform any of the terms or conditions of this Lease Agreement;

11.1.5. Failure by Tenant to comply with any law or regulation of any governmental authority, and

11.1.6. Any mechanic's lien or security interest filed against the leased premises or equipment, materials, or alterations of the leased premises or improvements thereon which shall result from the action of Tenant, whether occurring from negligence, contract or any other source, and regardless of faulty on the part of the Tenant.

11.2. The foregoing obligation is in addition to and not limited by any requirement on the part of the Tenant to purchase and maintain specified insurance coverages.

12. Liens

12.1. Tenant shall keep the leased premises free and clear of all liens arising out of any work performed, materials furnished, or obligation incurred by Tenant .

13. Compliance with Lease and Laws

13.1. Tenant shall not cause or allow any undue waste on the leased premises and shall comply with all applicable laws and ordinances respecting the use and occupancy of the leased premises relating to matters not covered elsewhere in this Lease Agreement.

14. Parking

14.1. The parties agree that a portion of the Parking Lot as designated on Exhibit "A" shall be for handicapped and public parking of customers of the Tenant and shall be subject to such parking regulations as the City may impose.

15. Assignments, Sales and Subleases of Leased Premises

15.1. Tenant shall not assign, sell or sublet the leased premises or any part thereof or interest therein, without the prior written consent of City. This Lease Agreement shall be assigned by operation of law. Any attempt to assign, sell or sublet without the consent of City shall be deemed a default by Tenant, entitling City to re-enter and occupy the leased premises pursuant to Section 19 of this Lease Agreement.

16. Default of Tenant

16.1. If any rents are reserved, or any part thereof, or any charges due City shall remain unpaid when they shall become due, or if Tenant violates or defaults in any of the provisions of this Lease Agreement, then City may cancel this Lease Agreement by giving notice as required under this Lease Agreement, and City may re-enter and take possession of the leased premises.

16.2. If Tenant becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee, or other liquidating officer is appointed for the business of the Tenant, the City may terminate this Lease Agreement at the option of the City by giving notice as required under this Lease Agreement, and City may re-enter and take possession of the leased premises.

17. Remedies of City And Tenant

17.1. City may terminate this Lease Agreement and take possession of the leased premises without further notice following either of these events:

17.1.1. Tenant fails to pay the rent due under this Lease Agreement within ten (10) days following written notice of default,

17.1.2. Tenant fails to commence corrections required by law or regulation of any governmental body,

17.1.3. Tenant fails to commence corrections of any other violation of its covenants and responsibilities under this Lease Agreement within ten (10) days following written notice, or

17.1.4. Having commenced corrections, Tenant fails to proceed to conclusion with due diligence.

17.2. Any breach by City of any obligation herein shall be a default of its obligation to Tenant and shall entitle Tenant to declare the default, at which time Tenant shall bear no further responsibility to fulfill its obligations hereunder and in such event Tenant shall be obligated to remove itself from the leased premises.

18. Termination and Surrender

18.1. Tenant shall surrender the leased premises to the City:

18.1.1. Within thirty (30) days of receipt of the default and termination notice by certified mail, or if undeliverable,

18.1.2. Within thirty (30) days of posting of the notice of default on the front door of the leased premises, or

18.1.3. On the last day of the term of this Lease Agreement.

18.2. Upon surrender, the leased premises shall be in as good a condition as when the Tenant took possession, except for ordinary wear and tear, loss by fire or other unavoidable casualty, or loss by any cause beyond the Tenant's control.

19. Notices

19.1. Except where otherwise required by state statute, all notices given pursuant to the provisions of the Lease Agreement may be sent by certified mail, postage prepaid, return receipt requested, to the last known mailing address of the party for whom the notice is intended. If delivery cannot be made to Tenant by certified mail, the City may cause notice to be made by posting of the notice on the front door of the leased premises. Notices to Landlord shall be addressed to City Administrator, City Hall, 205 2nd Avenue NW, Mandan, ND 58554. Notices to Tenant shall be addressed to Hirsch Floral, Inc., c/o Al Kuntz, 1951 149th Avenue NW, Bismarck, ND 58503.

20. Waivers

20.1. The failure of City to insist on strict performance of any of the terms or conditions hereof shall be deemed a waiver of the rights or remedies that the Parties may have regarding that specific instance only, and shall not be deemed a waiver of any subsequent breach or default in any terms or conditions hereof.

21. Succession

21.1. This Lease Agreement shall benefit and be binding upon the City and the Tenant and their respective heirs, legal representatives, successors and assigns.

22. Applicable Law

22.1. This Lease Agreement shall be governed and construed in accordance with the laws of the State of North Dakota.

23. Amendments or Modifications of Lease Agreement

23.1. This Lease Agreement may be modified or amended at any time by the written agreement of the Parties.

24. Personal Guarantee

24.1. The undersigned individual(s), in consideration for the aforesaid lease agreement between City and Tenant and as further security for performance, do hereby jointly and severally expressly guarantee the performance of rights and duties required of Tenant under the lease, including all payments required thereby in compliance with all terms and conditions of said lease and in event of default therein expressly agree that City may proceed against them personally in exercising all of the City's legal rights under said lease as if undersigned were original parties primarily liable on said lease agreement.

IN WITNESS WHEREOF, The Parties to this Lease Agreement have signed the day and date first above written.

CITY:

THE CITY OF MANDAN

By: _____
Arlyn Van Beek, President
Board of City Commissioners

TENANT:

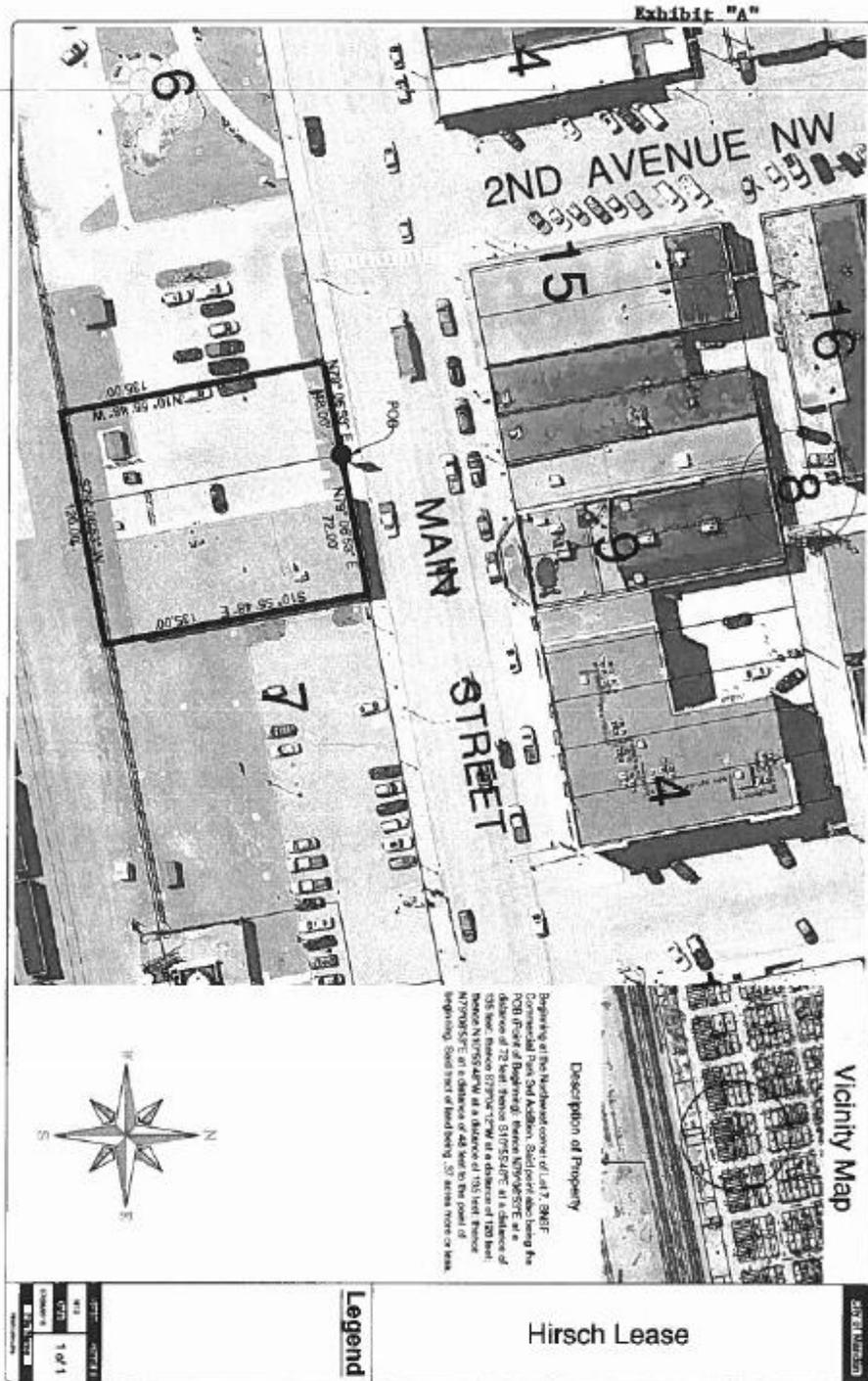
HIRSCH FLORAL, INC.

By: _____
Al Kuntz, President

ATTEST:

James Neubauer, City Administrator

GUARANTOR:



ORDINANCE NO. 1207

An Ordinance to Adopt the Re-Codification of the
Mandan Code of Ordinances

WHEREAS, The City of Mandan contracted with Municode Corporation to draft and revise the current Mandan Code of Ordinances; and

WHEREAS, Municode Corporation has completed their work and submitted a revised version of the Mandan Code of Ordinances; and

WHEREAS, Edits to what Municode Corporation prepared are listed in Appendix A; and

WHEREAS, Updates to the FEMA FIRM maps have been received by the city and language recognizing those updates has been incorporated in the new code language.

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

Section 1. Adoption of code. The revised Mandan Code of Ordinances as prepared by Municode Corporation is hereby adopted including the edits listed in Appendix A.

Section 2. Penalties. Section 1-9 of the revised Mandan Code of Ordinances relating to penalties provides as follows:

(c) All violations of this Code other than non-criminal traffic violations are an offense unless stated otherwise. Except as otherwise provided:

- (1) A person convicted of a violation of this Code that is an offense shall be punished by a fine not exceeding \$1,500.00 and imprisonment not to exceed 30 days, or by both such fine and imprisonment.
- (2) A person convicted of a violation of this Code that is a Class B misdemeanor shall be punished by a fine not exceeding \$1,500.00 and imprisonment not to exceed 30 days, or by both such fine and imprisonment.
- (3) A person convicted of a violation of this Code that is an infraction shall be punished by a fine not exceeding \$1,000.00; provided that any person convicted of an infraction who has, within one year prior to commission of the infraction for which convicted, been previously convicted of an offense classified as an infraction of state statutes or the ordinances of this or any other state municipality may be sentenced as though convicted of an offense.
- (4) A person convicted of a violation of this Code regulating the operation or

equipment of motor vehicles or regulating traffic shall be punished as provided in state law.

(5) With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

(6) As to other violations, each act is a separate offense.

(d) Violations of this Code that are continuous with respect to time may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief.

(e) This section shall not be construed to prohibit the utilization of the sentencing alternatives, other than a fine or imprisonment, provide by N.D.C.C. Title 12.1.

(f) The imposition of a penalty shall not prevent the city from revoking or suspending any license, franchise or permit.

(g) When an organization, as defined in N.D.C.C. § 12.1-03-04, is convicted of an offense, the court may, in addition to any other sentence imposed, require the organization to give notice of its conviction to the persons or class of persons ostensibly harmed by the offense by mail or by advertising in designated areas or by designated media or otherwise.

Section 3. Effective Date. This ordinance shall take effect on October 1, 2015.

President, Board of City Commissioners

Attest:

City Administrator

First Consideration:

July 21, 2015

Second Consideration and Final Passage:

August 4, 2015

Publication Date:

Appendix A to Ordinance 1207

Subsections (h) and (i) are added to Section 1-9 as follows:

(h) The board of city commissioners, at its discretion, may set, by resolution, a fixed amount for various penalties listed within this code that the police department shall use in issuing citations. The amount listed on the citation is the recommended penalty and the municipal judge has full discretion to modify the recommended penalty when imposing sentence.

(i) Unless otherwise specified, the primary enforcement agents for the city are the police chief and code enforcement officer or their designees.

Article 4 is added to Chapter 18 to read:

Chapter 18 Article 4. N.D.C.C. Cross-reference.

The N.D.C.C. text has been repeated here for reference. The text was copied on or about June 15, 2015, unless there is a note listing a later date for a specific section. The text contained on the N.D.C.C. web site is the official version and should be consulted to verify accuracy of the text reproduced here.

Sec. 18-4-1. Aiding consummation of crime.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-08-04.

12.1-08-04. Aiding consummation of crime.

1. A person is guilty of aiding consummation of crime if he intentionally aids another to secrete, disguise, or convert the proceeds of a crime or otherwise profit from a crime.
2. Aiding consummation of a crime:
 - a. Is a class C felony if the actor knows of the conduct of the other and such conduct constitutes a class A or class B felony.
 - b. Is a class A misdemeanor if the actor knows of the conduct of the other and such conduct constitutes a class C felony or class A misdemeanor.

Otherwise aiding consummation of a crime is a class B misdemeanor.

Sec. 18-4-2. Refusing to halt.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-08-11.

12.1-08-11. Refusing to halt.

Any person, other than the driver of a motor vehicle under section 39-10-71, who willfully fails or refuses to stop or who otherwise flees or attempts to elude, in any manner, a pursuing peace officer, when given a visual or audible signal to stop, is guilty of a class B misdemeanor for a first

or second offense and a class A misdemeanor for a subsequent offense. A signal to stop complies with this section if the signal is perceptible to the person and:

1. If given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the vehicle is appropriately marked showing it to be an official law enforcement vehicle; or
2. If not given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the officer is in uniform or prominently displays the officer's badge of office.

Sec. 18-4-3. Impersonating officials.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-13-04.

2.1-13-04. Impersonating officials.

1. A person is guilty of an offense if he falsely pretends to be:
 - a. A public servant, other than a law enforcement officer, and acts as if to exercise the authority of such public servant.
 - b. A public servant or a former public servant and thereby obtains a thing of value.
 - c. A law enforcement officer.
2. It is no defense to prosecution under this section that the pretended capacity did not exist or the pretended authority could not legally or otherwise have been exercised or conferred.
3. An offense under subdivision b or c of subsection 1 is a class A misdemeanor. An offense under subdivision a of subsection 1 is a class B misdemeanor.

Sec. 18-4-4. Simple assault.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-17-01.

12.1-17-01. Simple assault.

1. A person is guilty of an offense if that person:
 - a. Willfully causes bodily injury to another human being; or
 - b. Negligently causes bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.
2. The offense is:
 - a. A class C felony when the victim is a peace officer or correctional institution employee acting in an official capacity, which the actor knows to be a fact; an employee of the state hospital acting in the course and scope of employment, which the actor knows to be a fact, and the actor is an individual committed to or detained at the state hospital pursuant to chapter 25-03.3; a person engaged in a judicial proceeding; or a member of a municipal or volunteer fire department or emergency medical services personnel unit or emergency department worker in the performance of the member's duties.
 - b. A class B misdemeanor for the first offense when the victim is an actor's family or household member as defined in subsection 4 of section 14-07.1-01 and a class A misdemeanor for a second or subsequent offense when the victim is an actor's family or household member as defined in subsection 4 of section 14-07.1-01 and the actor has a

prior conviction for simple assault under this section or an assault offense under section 12.1-17-01.1 or 12.1-17-02 involving the commission of domestic violence as defined in subsection 2 of section 14-07.1-01. For purposes of this subdivision, a prior conviction includes a conviction of any assault offense in which a finding of domestic violence was made under a law or ordinance of another state which is equivalent to this subdivision.

- c. A class B misdemeanor except as provided in subdivision a or b.

Sec. 18-4-5. Harassment.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-17-07.

12.1-17-07. Harassment.

1. A person is guilty of an offense if, with intent to frighten or harass another, the person:
 - a. Communicates in writing or by electronic communication a threat to inflict injury on any person, to any person's reputation, or to any property;
 - b. Makes a telephone call anonymously or in offensively coarse language;
 - c. Makes repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication; or
 - d. Communicates a falsehood in writing or by electronic communication and causes mental anguish.
2. The offense is a class A misdemeanor if it is under subdivision a of subsection 1 or subsection 4. Otherwise it is a class B misdemeanor.
3. Any offense defined herein and committed by use of electronic communication may be deemed to have been committed at either the place at which the electronic communication was made or at the place where the electronic communication was received.
4. A person is guilty of an offense if the person initiates communication with a 911 emergency line, public safety answering point, or an emergency responder communication system with the intent to annoy or harass another person or a public safety agency or who makes a false report to a public safety agency.
 - a. Intent to annoy or harass is established by proof of one or more calls with no legitimate emergency purpose.
 - b. Upon conviction of a violation of this subsection, a person is also liable for all costs incurred by any unnecessary emergency response.
5. Any offense defined herein is deemed communicated in writing if it is transmitted electronically, by electronic mail, facsimile, or other similar means. Electronic communication means transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system.

Sec. 18-4-6. Criminal mischief.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-21-05.

12.1-21-05. Criminal mischief.

1. A person is guilty of an offense if that person:
 - a. Willfully tampers with tangible property of another so as to endanger person or property; or
 - b. Willfully damages tangible property of another.
2. The offense is:
 - a. A class B felony if the actor intentionally causes pecuniary loss in excess of ten thousand dollars.
 - b. A class C felony if the actor intentionally causes pecuniary loss in excess of two thousand dollars but not in excess of ten thousand dollars or damages tangible property of another by means of an explosive or a destructive device.
 - c. A class A misdemeanor if the actor recklessly causes pecuniary loss in excess of two thousand dollars or if the actor intentionally causes pecuniary loss of from one hundred dollars through two thousand dollars.

Otherwise the offense is a class B misdemeanor.

Sec. 18-4-7. Criminal trespass.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-22-03.

12.1-22-03. Criminal trespass.

1. An individual is guilty of a class C felony if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in a dwelling or in highly secured premises.
2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual:
 - a. Enters or remains in or on any building, occupied structure, or storage structure, or separately secured or occupied portion thereof; or
 - b. Enters or remains in any place so enclosed as manifestly to exclude intruders.
3. An individual is guilty of a class B misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.
4. An individual is guilty of a class B misdemeanor if that individual remains upon the property of another after being requested to leave the property by a duly authorized individual. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.
5. This section does not apply to a peace officer in the course of discharging the peace officer's official duties.

Sec. 18-4-8. Theft of property.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-23-02.

12.1-23-02. Theft of property.

A person is guilty of theft if he:

1. Knowingly takes or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another with intent to deprive the owner thereof;
2. Knowingly obtains the property of another by deception or by threat with intent to deprive the owner thereof, or intentionally deprives another of his property by deception or by threat; or
3. Knowingly receives, retains, or disposes of property of another which has been stolen, with intent to deprive the owner thereof.

Sec. 18-4-9. Theft of services.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-23-03.

12.1-23-03. Theft of services.

A person is guilty of theft if:

1. He intentionally obtains services, known by him to be available only for compensation, by deception, threat, false token, or other means to avoid payment for the services; or
2. Having control over the disposition of services of another to which he is not entitled, he knowingly diverts those services to his own benefit or to the benefit of another not entitled thereto. Where compensation for services is ordinarily paid immediately upon their rendition, as in the case of hotels, restaurants, and comparable establishments, absconding without payment or making provision to pay is prima facie evidence that the services were obtained by deception.

Sec. 18-4-10. Inciting riot or engaging in a riot.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-25-01 and 12.1-25-03.

12.1-25-01. Inciting riot.

1. A person is guilty of an offense if he:
 - a. Incites or urges five or more persons to create or engage in a riot; or
 - b. Gives commands, instructions, or directions to five or more persons in furtherance of a riot.
2. "Riot" means a public disturbance involving an assemblage of five or more persons which by tumultuous and violent conduct creates grave danger of damage or injury to property or persons or substantially obstructs law enforcement or other government function.
3. A person shall be convicted under section 12.1-06-01, 12.1-06-03, or 12.1-06-04 of attempt, solicitation, or conspiracy to commit an offense under this section only if he engages in the prohibited conduct under circumstances in which there is a substantial

likelihood that his conduct will imminently produce a violation of this section.

4. The offense is a class C felony if it is under subdivision b of subsection 1 and the riot involves one hundred or more persons. Otherwise it is a class A misdemeanor.

12.1-25-03. Engaging in a riot.

1. A person is guilty of a class B misdemeanor if he engages in a riot, as defined in section 12.1-25-01.
2. The provisions of subsection 3 of section 12.1-25-01 are applicable to attempt, solicitation, and conspiracy to commit an offense under this section. Mere presence at a riot is not an offense under this section.

Sec. 18-4-11. Disorderly conduct.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-31-01.

12.1-31-01. Disorderly conduct.

1. An individual is guilty of a class B misdemeanor if, with intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed, or alarmed by the individual's behavior, the individual:
 - a. Engages in fighting, or in violent, tumultuous, or threatening behavior;
 - b. Makes unreasonable noise;
 - c. In a public place, uses abusive or obscene language, knowingly exposes that individual's penis, vulva, or anus, or makes an obscene gesture;
 - d. Obstructs vehicular or pedestrian traffic or the use of a public facility;
 - e. Persistently follows a person in or about a public place or places;
 - f. While loitering in a public place for the purpose of soliciting sexual contact, the individual solicits the contact;
 - g. Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose;
 - h. Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person; or
 - i. Uses a fixed optical device that enhances or records a visual occurrence to view through any window of another person's property; or uses a surveillance camera to capture an image from the dwelling or accessory structure of another person; however, an individual using a surveillance camera has seven days from notice by a law enforcement officer to direct or shield the camera so as to not capture an image from another person's dwelling or accessory structure before there is an offense.
2. This section does not apply to constitutionally protected activity. If an individual claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity.

Sec. 18-4-12. Disorderly conduct at a funeral - Penalty.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-31-01.1.

12.1-31-01.1. Disorderly conduct at a funeral - Penalty.

1. For purposes of this section:
 - a. "Funeral" means the ceremonies, rituals, processions, and memorial services held at a funeral site in connection with the burial, cremation, or memorial of a deceased individual.
 - b. "Funeral site" means a church, synagogue, mosque, funeral home, mortuary, cemetery, gravesite, mausoleum, or other place at which a funeral is conducted or is scheduled to be conducted within the next hour or has been conducted within the last hour.
2. An individual is guilty of disorderly conduct at a funeral if the individual:
 - a. Engages, with knowledge of the existence of a funeral site, in any loud singing, playing of music, chanting, whistling, yelling, or noisemaking within one thousand feet [300.48 meters] of any ingress or egress of that funeral site if the volume of the singing, music, chanting, whistling, yelling, or noisemaking is likely to be audible at and disturbing to the funeral site; or
 - b. Displays, with knowledge of the existence of a funeral site and within one thousand feet [300.48 meters] of any ingress or egress of that funeral site, any visual images that convey fighting words or actual or veiled threats against any other individual.
3. Disorderly conduct at a funeral is a class B misdemeanor. A second or subsequent violation of this section is a class A misdemeanor.

Sec. 18-4-13. Sale of tobacco, electronic smoking devices, or alternative nicotine products to minors and use by minors prohibited.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-31-03.

12.1-31-03. Sale of tobacco, electronic smoking devices, or alternative nicotine products to minors and use by minors prohibited.

1. a. It is an infraction for any person to sell or furnish to a minor, or procure for a minor, cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products. As used in this subdivision, "sell" includes dispensing from a vending machine under the control of the actor.
 - b. It is an infraction for any person to display or offer for sale cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through a self-service display. This subdivision does not apply to a:
 - (1) Vending machine or other coin-operated machine that is permitted under section 12.1-31-03.1; or
 - (2) Self-service display that is located in a tobacco specialty store.
2. It is a noncriminal offense for a minor to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products.

However, an individual under eighteen years of age may purchase and possess tobacco, electronic smoking devices, or alternative nicotine products as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or association of tobacco, electronic smoking devices, or alternative nicotine products retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority.

3. It is a noncriminal offense for a minor to present or offer to another individual a purported proof of age which is false, fraudulent, or not actually the minor's own proof of age, for the purpose of attempting to purchase or possess cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products.
4. A city or county may adopt an ordinance or resolution regarding the sale of tobacco, electronic smoking devices, or alternative nicotine products to minors and use of tobacco, electronic smoking devices, or alternative nicotine products by minors which includes prohibitions in addition to those in subsection 1, 2, or 3. Any ordinance or resolution adopted must include provisions deeming a violation of subsection 2 or 3 a noncriminal violation and must provide for a fee of not less than twenty-five dollars for a minor fourteen years of age or older who has been charged with an offense under subsection 2 or 3. The failure to post a required bond or pay an assessed fee by an individual found to have violated the ordinance or resolution is punishable as a contempt of court, except a minor may not be imprisoned for the contempt.
5. A minor fourteen years of age or older found to have violated subsection 2 or 3 must pay a fee of twenty-five dollars.
 - a. Any individual who has been cited for a violation of subsection 2 or 3 may appear before a court of competent jurisdiction and pay the fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the fee. This subdivision does not allow a citing officer to receive the fee or bond.
 - b. If an individual cited for a violation of subsection 2 or 3 does not choose to follow the procedures provided under subdivision a, that individual may request a hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.
 - c. The failure to post bond or to pay an assessed fee is punishable as a contempt of court, except a minor may not be imprisoned for the contempt.
6. The prosecution must prove the commission of a cited violation under subsection 2 or 3 by a preponderance of the evidence.

7. A law enforcement officer that cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.
8. A person adjudged guilty of contempt for failure to pay a fee or fine may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or to an alternative sentence or sanction including community service.
9. As used in this section:
 - a. "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term does not include any cigarette, cigar, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, any electronic smoking device, or any product regulated as a drug or device by the United States Food and Drug Administration under chapter V of the federal Food, Drug, and Cosmetic Act [21 U.S.C 501 et seq.].
 - b. "Electronic smoking device" means any electronic product that delivers nicotine or other substances to the individual inhaling from the device, including, an electronic cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of such a product, whether or not sold separately. Electronic smoking device does not include drugs, devices, or combination products approved for sale by the United States food and drug administration, as those terms are defined in the federal Food, Drug and Cosmetic Act [52 Stat. 1040; 21 U.S.C. 301 et seq.].
 - c. "Self-service display" means a display that contains cigarettes, cigarette papers, cigars, snuff, tobacco in any other form which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products and is located in an area that is openly accessible to the retailer's customers, and from which customers can readily access those products without the assistance of a salesperson. A display case that holds those products behind locked doors does not constitute a self-service display.
 - d. "Tobacco specialty store" means a retail store that:
 - (1) Derives at least seventy-five percent of its revenue from the sale of cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products; and
 - (2) Does not permit minors to enter the premises unless accompanied by a parent or legal guardian.
 - e. "Vending machine" means a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or other means of payment that is designed or used for vending purposes, including machines or devices that use remote control locking mechanisms.

Sec. 18-4-14. Vending machines prohibited - Penalty.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-31-03.1.

12.1-31-03.1. Vending machines prohibited - Penalty.

1. It is an infraction for any person to sell or furnish cigarettes, cigarette papers, cigars, snuff,

tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through a vending machine, except as provided in subsection 2.

2. Subsection 1 does not apply to:
 - a. A vending machine that is located in an area in which minors are not permitted access; or
 - b. A vending machine that dispenses cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through the operation of a device that requires a salesperson to control the dispensation of such product.
3. It is an infraction for any person to sell or furnish cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through any vending machine, if those products are placed together with any nontobacco product, other than matches, in the vending machine.
4. As used in this section, "electronic smoking devices" and "alternative nicotine products" have the same meaning as in section 12.1-31-03.

Sec. 18-4-15. Retail theft act.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 51-21.

Chapter 51-21 Retail Theft Act

51-21-01. Definitions.

As used in this chapter, unless the context requires otherwise:

1. An item is "concealed" within the meaning of this chapter if, even though there is some notice of its presence, the item itself is not visible through ordinary observation.
2. "Full retail value" means the merchant's stated or advertised price of the merchandise.
3. "Merchandise" means any item of tangible personal property and specifically includes shopping carts.
4. "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, franchisee, or independent contractor or such owner or operator.
5. "Person" means any natural person or individual.
6. "Premises of a retail mercantile establishment" includes, but is not limited to, the retail mercantile establishment, any common-use areas in shopping centers, and all parking areas set aside by a merchant, or on behalf of a merchant, for the parking of vehicles for the convenience of the patrons of said retail mercantile establishment.
7. "Retail mercantile establishment" means any place where merchandise is displayed, held, offered, or stored for sale to the public.
8. "Shopping cart" means those pushcarts of the type or types which are commonly provided by grocery stores, drugstores, or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and, incidentally, from the stores to a place outside the store.

51-21-02. Presumption.

Any person concealing upon that person's person or among that person's belongings, or causing to be concealed upon the person or among the belongings of another, unpurchased merchandise displayed, held, offered, or stored for sale in a retail mercantile establishment and removing it to a point beyond the last station for receiving payments in that retail mercantile establishment shall be prima facie presumed to have so concealed such merchandise with the intention of permanently depriving the merchant of possession or of the full retail value of such merchandise.

51-21-03. Detention of suspect - Procedure.

Any peace officer or merchant who reasonably believes that a person has committed, or is in the process of committing, theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

1. To require the person to identify oneself.
2. To verify such identification.
3. To determine whether such person has in the person's possession unpurchased merchandise and, if so, to recover such merchandise.
4. To inform a peace officer of the detention of the person and surrender custody of that person to a peace officer.
5. In the case of a minor, to inform a peace officer, the parents, guardian, or other private person interested in the welfare of that minor of this detention and to surrender custody of said minor to the person informed.

51-21-04. Civil and criminal immunity for acts of detention.

Any peace officer or merchant who detains any person as permitted under section 51-21-03 may not be held civilly or criminally liable for any claim for relief allegedly arising from such detention.

51-21-05. Civil remedy against adult shoplifters or the parent of a minor shoplifter.

1. An adult who commits the offense of theft from a merchant is civilly liable to the merchant for the retail value of the merchandise, plus exemplary damages of not more than two hundred fifty dollars, costs of the civil action, and reasonable attorney's fees.
2. The parent or legal guardian of an unemancipated minor who while living with the parent or legal guardian commits the offense of theft from a merchant is civilly liable to the merchant for the retail value of the merchandise, plus exemplary damages of not more than two hundred fifty dollars, costs of the civil action, and reasonable attorney's fees. If the merchant knows or reasonably should know that the individual believed to have committed theft is a minor, the merchant may not request that the individual sign an admission of theft or other similar declaration unless the minor's parent, guardian, or attorney is present. An admission in violation of this subsection is not valid and is inadmissible in a civil or criminal action.
3. A conviction or plea of guilty for the theft is not a prerequisite to the bringing of a civil action under this section. However, if a criminal theft charge is filed against the individual, the merchant may not pursue civil damages until completion of the criminal action.

4. A parent or legal guardian of an unemancipated minor is not civilly liable under this section if it is determined by the court that one of the principal rationales for the shoplifting was a desire on the part of the minor to cause the minor's parent or legal guardian to be liable under this section.

Sec. 18-4-16. Discharge of firearm within city.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 62.1-02-6.

62.1-02-06. Discharge of firearm within city - Penalty - Application.

A person who discharges a firearm within a city is guilty of a class B misdemeanor. This section does not apply to the lawful discharge of firearms by law enforcement officers, by citizens in defense of person or property, or by participants in lawful activities in which discharge of firearms is a recognized part of the activity, including shooting galleries and ranges.

Sec. 18-4-17. Carrying loaded firearm in vehicle.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 62.1-02-10.

62.1-02-10. Carrying loaded firearm in vehicle - Penalty - Exceptions.

An individual may not keep or carry a loaded firearm in or on any motor vehicle in this state. An individual violating this section is guilty of a class B misdemeanor. This prohibition does not apply to:

1. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations while possessing the firearm issued to the member by the organization and while on official duty.
2. A law enforcement officer, except while the officer is engaged in hunting or trapping activities with a rifle or shotgun.
3. An individual possessing a valid North Dakota concealed weapons license or a valid license issued by another state authorizing the individual to carry a firearm or dangerous weapon concealed if that state permits a holder of a valid North Dakota concealed weapons license to carry a firearm or dangerous weapon concealed in that state without obtaining a similar license from that state, except while that individual is in the field engaged in hunting or trapping activities.
4. An individual in the field engaged in lawful hunting or trapping of nongame species or fur-bearing animals.
5. A security guard or private investigator properly licensed to carry firearms.
6. An individual possessing a valid special permit issued pursuant to section 20.1-02-05.

Section 20-8-8 is amended to read:

Sec. 20-8-8. Computation of benefit distributions.

- (a) Retirement or disability. If a participant's employment with the city is terminated at or

after the participant attains 65 years of age or if the participant's employment is terminated at an earlier age because of disability, the participant shall be vested in and entitled to receive the entire amount of contributions in each of the participant's accounts. The entire amount in a participant's account at termination of employment shall include any city contributions.

(b) Death. In the event of a participant's death, the beneficiary shall be vested in and paid the entire amount of the participant's accounts.

(c) Termination for other reasons. If a participant's employment with the city is terminated before 65 years of age for any reason other than disability or death, the participant shall be entitled to:

- (1) The entire amount credited to the participant's employee contribution account.
- (2) The participant shall be vested in and entitled to receive an amount equal to a percentage of the value of the participant's employer contribution account, if any. Such percentage is to be determined in accordance with the following schedule:

Years of Service	Vesting Percentage
Less than 1	0%
1	25%
2	50%
3	75%
4	100%

(d) Normal participant retirement age.

- (1) A participant attains normal retirement age under the plan when the participant attains the age of 65 years.
- (2) The plan designates attainment of age 55 years for sworn police officers and career firefighters.

The following is added to Section 22-2-2:

There is imposed an additional tax of three-fourths percent upon the gross receipts of retailers from all sales at retail, including the leasing and renting of tangible personal property, within the corporate limits of the city, of those items subject to taxation under N.D.C.C. ch. 57-39.2, until such time as bonds for the construction of certain Park District improvements, subject of a June 9, 2015 special election are paid in full, at which time the additional tax of three-fourths percent shall terminate.

Section 24-1-2 is amended to read:

Sec. 24-1-2. Penalties.

(a) Any person violating any of the provisions of this chapter for which another criminal penalty is not provided specifically is guilty of an infraction. As used in this section, the term "another criminal penalty" includes provision for payment of a fixed fee for violating another section in this chapter, but does not include any other administrative sanction which may be imposed.

(b) Except for article 7 of this chapter or as provided by state law, the fine for violating this chapter shall be \$20.00 unless another amount for a specific infraction is established by resolution of the board of city commissioners.

(c) The fine for violating article 7 of this chapter is \$10.00 unless another amount for a specific infraction is established by resolution of the board of city commissioners.

Section 24-5-1 (3) is amended to read:

Sec. 24-5-1. Additional rules for operation of off-highway vehicles.

(c) Passing another off-highway vehicle while such off-highway vehicle is in operation and underway on any street, alley, highway, or other public ground or place in the city.

Sec. 24-7-17 (g) is amended by addition of the following per Ordinance 1212:

For the time from May 15th to September 15th a trailer or vehicle may be parked on a street for a period not to exceed twenty-four hours.

Article 11 is added to Chapter 24 to read:

Chapter 24 Article 11. N.D.C.C. Cross-reference – criminal offenses.

The N.D.C.C. text has been repeated here for reference. The text was copied on or about June 15, 2015, unless there is a note listing a later date for a specific section. The text contained on the N.D.C.C. web site is the official version and should be consulted to verify accuracy of the text reproduced here.

Sec. 24-11-1. Violations of registration provisions.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-04-37.

39-04-37. Violations of registration provisions.

It is unlawful for any person to commit any of the following acts:

1. To operate, or for the owner thereof knowingly to permit anyone to operate, upon a highway any vehicle the registration of which has been canceled or revoked, or for which the registration fees required in this title have not been paid, or which does not have attached thereto and displayed thereon a number plate, plates, or validation tabs assigned

thereto by the director for the current registration period, subject to the exemptions allowed in this title.

2. To display or cause or permit to be displayed, or to have in possession, any registration card, registration number plate, or validation tabs knowing the same to be fictitious or to have been canceled, revoked, suspended, or altered.
3. To lend any registration number plate, registration card, or validation tabs to any person not entitled thereto, or knowingly permit the use of any registration number plate or registration card by any person not entitled thereto.
4. To fail or refuse to surrender to the department, upon demand, any registration card, registration number plate, or validation tab which has been suspended, canceled, or revoked as is provided in this chapter.
5. To use a false or fictitious name or address in any application for the registration of any vehicle, or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise to commit a fraud in any application

Sec. 24-11-2. Penalty for driving while license suspended or revoked.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-06-42.

39-06-42. Penalty for driving while license suspended or revoked - Impoundment of vehicle number plates - Authority of cities.

1. Except as provided in section 39-06.1-11, an individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state while an individual's operator's license is suspended or revoked in any jurisdiction is guilty of a class B misdemeanor for the first, second, or third offense within a five-year period. Any subsequent offense within the same five-year period is a class A misdemeanor.
2. If the suspension or revocation was imposed for violation of section 39-08-01 or equivalent ordinance or was governed by section 39-06-31 or chapter 39-20, the sentence must be at least four consecutive days' imprisonment and a fine as the court deems proper. The execution of sentence may not be suspended or the imposition of sentence deferred under subsection 3 or 4 of section 12.1-32-02. Forfeiture of bail is not permitted in lieu of the defendant's personal appearance in open court for arraignment on a charge under this subsection.
3. A court may dismiss a charge under this section upon motion by the defendant if the defendant's operator's license is reinstated within sixty days of the date of the offense and the defendant provides to the court satisfactory evidence of the reinstatement.
4. In addition to any other punishment imposed, the court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be destroyed by the sheriff. If a period of suspension has been extended under subsection 6 of section 39-06-17, the court may order the number plates to be destroyed under this subsection. The offender shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the sheriff and notify the department of the order. An offender who does not provide the number plates to the court at the appropriate time is subject to revocation of probation.

5. A city may authorize, by ordinance, its municipal judge to order destruction of motor vehicle number plates by the office of the police officer that made the arrest in the manner provided in subsection 4.

Sec. 24-11-3. Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-08-01.

39-08-01. Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle - Penalty.

1. A person may not drive or be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:
 - a. That person has an alcohol concentration of at least eight one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle.
 - b. That person is under the influence of intoxicating liquor.
 - c. That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely driving.
 - d. That person is under the combined influence of alcohol and any other drugs or substances to a degree which renders that person incapable of safely driving.
 - e. That individual refuses to submit to any of the following:
 - (1) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-06.2-10.2 if the individual is driving or is in actual physical control of a commercial motor vehicle; or
 - (2) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-20-01; or
 - (3) An onsite screening test, or tests, of the individual's breath for the purpose of estimating the alcohol concentration in the individual's breath upon the request of a law enforcement officer under section 39-20-14.

The fact that any person charged with violating this section is or has been legally entitled to use alcohol or other drugs or substances is not a defense against any charge for violating this section, unless a drug which predominately caused impairment was used only as directed or cautioned by a practitioner who legally prescribed or dispensed the drug to that person.

2. An individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state who refuses to submit to a chemical test, or tests, required under section 39-06.2-10.2, 39-20-01, or 39-20-14, is guilty of an offense under this section.

3. An individual violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second offense in a seven-year period, of a class A misdemeanor for a third offense in a seven-year period, of a class C felony for any fourth or subsequent offense regardless of the length of time since the previous offense. The minimum penalty for violating this section is as provided in subsection 5. The court shall take judicial notice of the fact that an offense would be a subsequent offense if indicated by the records of the director or may make a subsequent offense finding based on other evidence.
4. Upon conviction of a second or subsequent offense within seven years under this section or equivalent ordinance, the court may order the motor vehicle number plates of all of the motor vehicles owned and operated by the offender at the time of the offense to be destroyed by the office of the police officer that made the arrest. The offender shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the office and notify the department of the order. An offender who does not provide the number plates to the court at the appropriate time is subject to revocation of probation. The court may make an exception to this subsection, on an individual basis, to avoid undue hardship to an individual who is completely dependent on the motor vehicle for the necessities of life, including a family member of the convicted individual and a coowner of the motor vehicle, or if the offender is participating in the twenty-four seven sobriety program.
5. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection. For purposes of this subsection, unless the context otherwise requires, "drug court program" means a district court-supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and chemical addiction treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug courts and the drug court program.
 - a. (1) For a first offense, the sentence must include both a fine of at least five hundred dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program.
 - (2) In addition, for a first offense when the convicted person has an alcohol concentration of at least sixteen one-hundredths of one percent by weight, the offense is an aggravated first offense and the sentence must include a fine of at least seven hundred fifty dollars and at least two days' imprisonment.
 - b. For a second offense within seven years, the sentence must include at least ten days' imprisonment, of which forty-eight hours must be served consecutively; a fine of one thousand five hundred dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; and at least twelve months' participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
 - c. For a third offense within seven years, the sentence must include at least one hundred twenty days' imprisonment; a fine of at least two thousand dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; at least one year's supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.

- d. For a fourth or subsequent offense, the sentence must include at least one year and one day's imprisonment; a fine of at least two thousand dollars; an order for addiction evaluation by an appropriate licensed treatment program; at least two years' supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
- e. The imposition of sentence under this section may not be deferred under subsection 4 of section 12.1-32-02 for an offense subject to this section.
- f. If the offense is subject to subdivision a or b, a municipal court or district court may not suspend a sentence, but may convert each day of a term of imprisonment to ten hours of community service for an offense subject to paragraph 2 of subdivision a. If the offense is subject to subdivision c, the district court may suspend a sentence, except for sixty days' imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation and upon completion of the twenty-four seven sobriety program. If the offense is subject to subdivision d, the district court may suspend a sentence, except for one year's imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the defendant is found to be in need of alcohol and substance abuse treatment and rehabilitation, the district court may order the defendant placed under the supervision and management of the department of corrections and rehabilitation and is subject to the conditions of probation under section 12.1-32-07. The district court may require the defendant to complete alcohol and substance abuse treatment and rehabilitation under the direction of the drug court program as a condition of probation in accordance with rules adopted by the supreme court. If the district court finds that a defendant has failed to undergo an evaluation or complete treatment or has violated any condition of probation, the district court shall revoke the defendant's probation and shall sentence the defendant in accordance with this subsection.
- g. For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section must be considered a prior offense if such offense was committed within the time limitations specified in this section.
- h. If the penalty mandated by this section includes imprisonment or placement upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo treatment at an appropriate licensed addiction treatment program under subdivision g of subsection 1 of section 12.1-32-02 and the time spent by the defendant in the treatment must be credited as a portion of a sentence of imprisonment or placement under this section. A court may not order the department of corrections and rehabilitation to be responsible for the costs of treatment in a private treatment facility.
- i. If the court sentences an individual to the legal and physical custody of the department of corrections and rehabilitation, the department may place the individual in an alcohol treatment program designated by the department. Upon the individual's successful completion of the alcohol treatment program, the department shall release the individual from imprisonment to serve the remainder of the sentence of imprisonment on probation, which may include placement in another facility or treatment program.

If an individual is placed in another facility or treatment program after release from imprisonment, the remainder of the individual's sentence of imprisonment must be considered time spent in custody.

6. As used in subdivisions b and c of subsection 5, the term "imprisonment" includes house arrest. As a condition of house arrest, a defendant may not consume alcoholic beverages. The house arrest must include a program of electronic home detention and the defendant shall participate in the twenty-four seven sobriety program. The defendant shall defray all costs associated with the electronic home detention. For an offense under subdivision b or c of subsection 5, no more than ninety percent of the sentence may be house arrest.
7. As used in this title, participation in the twenty-four seven sobriety program under chapter 54-12 means compliance with sections 54-12-27 through 54-12-31, and requires sobriety breath testing twice per day seven days per week or electronic alcohol monitoring, urine testing, or drug patch testing. The offender is responsible for all twenty-four seven sobriety program fees and the court may not waive the fees.

Sec. 24-11-4. Reckless driving - Aggravated reckless driving.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-08-03.

39-08-03. Reckless driving - Aggravated reckless driving - Penalty.

Any person is guilty of reckless driving if the person drives a vehicle:

1. Recklessly in disregard of the rights or safety of others; or
2. Without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or the property of another.

Except as otherwise herein provided, any person violating the provisions of this section is guilty of a class B misdemeanor. Any person who, by reason of reckless driving as herein defined, causes and inflicts injury upon the person of another, is guilty of aggravated reckless driving, and is guilty of a class A misdemeanor.

Article 12 is added to Chapter 24 to read:

Chapter 24 Article 12. N.D.C.C. Cross-reference – miscellaneous offenses.

The N.D.C.C. text has been repeated here for reference. The text was copied on or about June 15, 2015, unless there is a note listing a later date for a specific section. The text contained on the N.D.C.C. web site is the official version and should be consulted to verify accuracy of the text reproduced here.

Sec. 24-12-1. Display of number plates and tab.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-04-11.

39-04-11. Display of number plates and tabs.

Except as otherwise specifically provided, a person may not operate or drive a vehicle on the public highways of this state unless the vehicle has a distinctive number assigned to it by the department, and two number plates, bearing the distinctive number conspicuously displayed, horizontally and in an upright position, one on the front and one on the rear of the vehicle, each securely fastened, except number plates assigned to a motorcycle, trailer, housetrailer must be attached to the rear thereof. When only one number plate is furnished for an apportioned vehicle licensed under the international registration plan as authorized in section 39-19-04, truck tractor, or semitrailer, the plate must be attached to the front of the apportioned vehicle or truck tractor and the rear of the semitrailer. The bottom of each number plate must be at a height of not less than twelve inches [30.48 centimeters] above the level surface upon which the vehicle stands. Each plate must be mounted in a manner that does not cover any words, letter, or number on the plate. As far as is reasonably possible, the plates must at all times be kept free and clear of mud, ice, or snow so as to be clearly visible and all number plates, markers, or evidence of registration or licensing except for the current year must be removed from the vehicle. All vehicle license plates issued by the department continue to be the property of the state of North Dakota for the period for which the plates are valid. An annual registration tab or sticker for the current registration year must be displayed on each number plate, in the area designated by the department for the tab or sticker, in those years for which tabs or stickers are issued in lieu of number plate.

Sec. 24-12-2. License to be carried and exhibited on demand.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-06-16.

39-06-16. License to be carried and exhibited on demand.

An individual licensed to operate a motor vehicle shall have the operator's license in the individual's immediate possession at all times when operating a motor vehicle and shall physically surrender the operator's license, upon demand of any court, police officer, or a field deputy or inspector of the department. However, an individual charged with violating this section may not be convicted or assessed any court costs if the individual produces in court or in the office of the arresting officer a valid operator's license issued to that individual that is not under suspension, revocation, or cancellation at the time of the individual's arrest.

Sec. 24-12-3. Permitting unauthorized minor to drive.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-06-44.

39-06-44. Permitting unauthorized minor to drive.

An individual may not cause or knowingly permit the individual's minor child or ward to operate a motor vehicle upon any highway if the minor is not authorized under this chapter or in violation of this chapter.

Sec. 24-12-4. Permitting unauthorized individual to drive.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-06-45.

39-06-45. Permitting unauthorized individual to drive.

An individual may not authorize or knowingly permit a motor vehicle owned by the individual or under the individual's control to be operated upon any highway by any individual who is not authorized under this chapter or in violation of this chapter.

Sec. 24-12-5. Garages to report, wrecker and towing services to report, immediate notice of accident, when driver unable to report.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-07-12, 39-07-13, 39-08-09 or 39-08-11.

39-07-12. Garages to report.

The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in a reportable accident as provided in section 39-08-09 or of being struck by any bullet shall report or cause a report to be made to a police officer within twenty-four hours after such motor vehicle is received, and before any repairs are made to such vehicle, giving the registration number, and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff, or highway patrolman, bearing information to show that the accident in which the vehicle was involved has been investigated. The police officer investigating any reportable accident shall attach a sticker to the window of any damaged vehicle showing that the accident in which such vehicle was involved has been investigated. If the vehicle does bear such a sticker, the garage or repair shop need not make the report this section requires and may begin repairs immediately. After repairs have been made and before the vehicle is released, the sticker provided herein must be removed.

39-07-13. Wrecker and towing services to report.

The person in charge or the operator of any commercial towing or wrecker service which causes any motor vehicle to be transported to a private residence or business other than a garage or repair shop which shows evidence of having been involved in a reportable accident as provided in section 39-08-09 or of being struck by any bullet shall report or cause a report to be made to a police officer within twenty-four hours after such motor vehicle is transported. The report must give the registration number, and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, along with the location such vehicle was transported to, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff, or highway patrolman, bearing information to show that the accident in which the vehicle was involved has been investigated. If the vehicle does bear such a sticker, the towing or wrecker service need not make the report this section requires.

39-08-09. Immediate notice of accident - Penalty.

1. The driver of a vehicle involved in an accident resulting in injury to or death of any person, or property damage to an apparent extent of at least one thousand dollars, shall immediately give notice of the accident to the local police department if the accident occurs within a municipality, otherwise to the office of the county sheriff or the state highway patrol. Any person who violates this section must be assessed a fine of fifty dollars. The name of the motor vehicle insurance policy carrier and the policy number of the driver, or if the driver is not the owner of the vehicle, then the motor vehicle insurance policy carrier and the policy number of the owner of the vehicle, must be furnished to the law enforcement officer investigating the accident. If the driver does not have the required information concerning insurance to furnish to the investigating law enforcement officer, then within five days of the accident the driver shall supply that information to the driver's license division in the form the division requires.
2. The director may suspend the license or permit to drive and any nonresident operating privileges of any person failing to comply with the duties as provided in sections 39-08-06 through 39-08-09 until those duties have been fulfilled, and the director may extend the suspension not to exceed thirty days.
3. The driver of a vehicle involved in an accident with an undomesticated animal resulting in property damage only to the driver's vehicle is exempt from the notice requirements of this section, regardless of the amount of damage to the driver's vehicle.

39-08-11. When driver unable to report.

1. An accident notice is not required from any person who is physically incapable of making the report during the period of such incapacity.
2. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall make or cause to be given the notice not given by the driver.
3. Whenever the driver is physically incapable of giving notice of an accident and such driver is not the owner of the vehicle, then the owner of the vehicle involved shall within five days after learning of the accident give such notice and insurance information not given by the driver.

Sec. 24-12-6. Exhibition driving and drag racing.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-08-03.1.

39-08-03.1. Exhibition driving and drag racing - Definitions - Penalty.

1. No person may engage in exhibition driving of any vehicle on a highway, street, alley, sidewalk, or any public or private parking lot or area, nor may any person engage in a race, a speed competition, drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration. Any person who violates this section by engaging in an act defined by subdivision b of subsection 2 must be assessed a fee of fifty dollars. Any person who violates this section by engaging in an act defined by subdivision a or c of subsection 2 must be assessed a fee of one hundred dollars.
2. As used in this section:

- a. "Drag race" means the operation of two or more vehicles from a point side by side by accelerating rapidly in a competitive attempt to cause one vehicle to outdistance the other; or the operation of one or more vehicles over a common selected course from the same point to the same point for the purpose of comparing the relative speed or powers of acceleration of such vehicle or vehicles within a certain distance or time limit.
 - b. "Exhibition driving" means driving a vehicle in a manner which disturbs the peace by creating or causing unnecessary engine noise, tire squeal, skid, or slide upon acceleration or braking; or driving and executing or attempting one or a series of unnecessarily abrupt turns.
 - c. "Race" means the use of one or more vehicles in an attempt to outgain, outdistance, or to arrive at a given distance ahead of another vehicle or vehicles; or the use of one or more vehicles to willfully prevent another vehicle from passing the racing vehicle or vehicles, or to test the physical stamina or endurance of the persons driving the vehicles over a long-distance driving route.
3. Nothing in this section shall be construed as prohibiting drag racing, exhibition driving, or similar events when carried out in an organized manner on a track or other privately owned area specifically set aside and used solely for such purposes by drivers of motor vehicles, including snowmobiles.

Sec. 24-12-7. Open container law.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-08-18.

39-08-18. Open container law - Penalty.

1. A person may not drink or consume alcoholic beverages, as defined in section 5-01-01, in or on any motor vehicle when the vehicle is upon a public highway or in an area used principally for public parking. A person may not have in that person's possession on that person's person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It is unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle is kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment must be deemed to be within the area occupied by the driver and passengers. This subsection does not prohibit the consumption or possession of alcoholic beverages in a house car if the consumption or possession occurs in the area of the house car used as sleeping or living quarters and that area is separated from the driving compartment by a solid partition, door, curtain, or some similar means of separation; however, consumption is not authorized while the house car is in motion. Any person violating this subsection must be assessed a fee of fifty dollars; however, the licensing

authority may not record the violation against the person's driving record unless the person was the driver of the motor vehicle at the time that the violation occurred.

2. Subsection 1 does not apply to a public conveyance that has been commercially chartered for group use, any passenger for compensation in a for-hire motor vehicle, or a privately owned motor vehicle operated by a person in the course of that person's usual employment transporting passengers at the employer's direction. This subsection does not authorize possession or consumption of an alcoholic beverage by the operator of any motor vehicle described in this subsection while upon a public highway or in an area used principally for public parking.

Sec. 24-12-8. Driving without liability insurance prohibited.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-08-20.

39-08-20. Driving without liability insurance prohibited - Penalty.

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1.
2. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence, including written or electronic proof of insurance, of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section. If that person produces satisfactory evidence, including written or electronic proof of insurance, of a valid policy of liability insurance in effect at the time of the alleged violation of this section to the office of the court under which the matter will be heard, that person may not be convicted or assessed any administration fee for violation of subsection 1.
3. Notwithstanding section 26.1-30-18, a person may be convicted for failure to have a valid policy of liability insurance in effect under this section if the time of acquisition of the policy was after the time of the alleged incidence of driving without liability insurance. If the time of acquisition of the policy comes into question, the driver or owner has the burden of establishing the time of acquisition. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle.
4. Violation of subsection 1 is an infraction and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within a three-year period must be fined at least three hundred dollars which may not be suspended. For a second or subsequent conviction for a violation of subsection 1 or equivalent ordinance, the court shall order the motor vehicle number plates of the motor vehicle owned and operated by the person at the time of the violation to be impounded until that person provides proof of insurance and a twenty dollar fee to the court. The person shall deliver

the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the office of the police officer that made the arrest and notify the department of the order. A person who does not provide the number plates to the court at the appropriate time is guilty of a class B misdemeanor.

5. Upon conviction for a violation of subsection 1 or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.
6. A person who has been convicted for violation of subsection 1 or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.
7. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

Sec. 24-12-9. Care required in operating vehicle.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-09-01.1.

39-09-01.1. Care required in operating vehicle.

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.

Article 13 is added to Chapter 24 to read:

Chapter 24 Article 13. N.D.C.C. Cross-reference – pedestrians.

The N.D.C.C. text has been repeated here for reference. The text was copied on or about June 15, 2015, unless there is a note listing a later date for a specific section. The text contained on the N.D.C.C. web site is the official version and should be consulted to verify accuracy of the text reproduced here.

Sec. 24-13-1. Pedestrian's right of way in crosswalk.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-28.

39-10-28. Pedestrian's right of way in crosswalk.

1. When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
2. No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.
3. Subsection 1 does not apply under the conditions stated in subsection 2 of section 39-10-29.
4. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the highway, the driver of any other vehicle approaching from the rear may not overtake and pass such stopped vehicle.

Sec. 24-13-2. Crossing at other than crosswalk.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-29.

39-10-29. Crossing at other than crosswalk.

1. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.
2. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.
3. Between adjacent intersections at which traffic-control devices are in operation, pedestrians may not cross at any place except in a marked crosswalk.
4. No pedestrian may cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

Sec. 24-13-3. Pedestrian on roadway.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-33.

39-10-33. Pedestrian on roadway.

1. Where a sidewalk is provided and its use is practicable, it is unlawful for any pedestrian to walk along and upon an adjacent roadway.

2. Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.

3. Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.

4. Except as otherwise provided for in this chapter, any pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway.

Sec. 24-13-4. Pedestrian's right of way on sidewalk.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-33.1.

39-10-33.1. Pedestrian's right of way on sidewalk.

The driver of a vehicle shall yield the right of way to any pedestrian on a sidewalk.

Sec. 24-13-5. Pedestrian to yield to authorized emergency vehicles.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-33.2.

39-10-33.2. Pedestrian to yield to authorized emergency vehicles.

1. Upon the immediate approach of an authorized emergency vehicle making use of an audible signal by bell, siren, or exhaust whistle and displaying a visible flashing, revolving, or rotating blue, white, or red light, every pedestrian shall yield the right of way to the authorized emergency vehicle.

2. This section does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.

Sec. 24-13-6. Blind pedestrian right of way.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-33.3.

39-10-33.3. Blind pedestrian right of way.

The driver of a vehicle shall yield the right of way to an individual who is blind or visually impaired and carrying a clearly visible white cane or to an individual with a disability who is accompanied by an assistance dog.

Sec. 24-13-7. Pedestrian under influence of alcohol or drugs.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-33.4.

39-10-33.4. Pedestrian under influence of alcohol or drugs.

A pedestrian who is under the influence of alcohol or any drug to a degree which renders the pedestrian a hazard may not walk or be upon a roadway.

Sec. 24-13-8. Pedestrian soliciting ride or business.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-34.

39-10-34. Pedestrian soliciting ride or business.

1. No person may stand in a roadway for the purpose of soliciting a ride.
2. No person may stand in a roadway for the purpose of soliciting employment, business, or contributions from the occupant of any vehicle.
3. No person may stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

Sec. 24-13-9. Required position and method of turning.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-35.

39-10-35. Required position and method of turning.

The driver of a vehicle intending to turn shall do so as follows:

1. Right turns. Both the approach for a right turn and a right turn must be made as close as practicable to the right-hand curb or edge of the roadway.
2. Left turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable, the left turn must be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.
3. The director and local authorities in their respective jurisdictions may cause official traffic-control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles, and when such devices are so placed, no driver of a vehicle may turn it other than as directed and required by such devices.

Article 14 is added to Chapter 24 to read:

Chapter 24 Article 14. N.D.C.C. Cross-reference – traffic rules and regulations.

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Sec. 24-14-1. Accidents involving damage to vehicle.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-08-05.

39-08-05. Accidents involving damage to vehicle - Penalty.

The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until the driver has fulfilled the requirements of section 39-08-06. Every such stop must be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances is guilty of a class B misdemeanor.

Sec. 24-14-2. Duty upon striking highway fixtures or other property.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-08-08.

39-08-08. Duty upon striking highway fixtures or other property.

The driver of any vehicle involved in an accident resulting only in damage to highway fixtures or other property shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of the driver's name and address and of the registration number of the vehicle the driver is driving and shall upon request and if available exhibit the driver's operator's or chauffeur's license and shall make report of such accident when and as required in section 39-08-09.

Sec. 24-14-3. Obedience to police officer or firefighter.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-02.

39-10-02. Obedience to police officer or firefighter.

No person may willfully refuse to comply with any lawful order or direction of any police officer or firefighter invested by law with authority to direct, control, or regulate traffic.

Sec. 24-14-4. Obedience to and required traffic - control devices.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-04.

39-10-04. Obedience to and required traffic-control devices.

1. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.
2. No provision of this chapter for which traffic-control devices are required may be enforced against an alleged violator if at the time and place of the alleged violation an official device

is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a state statute does not state that devices are required, such statute is effective even though no devices are erected or in place.

3. Whenever official traffic-control devices are placed in positions approximately conforming to the requirements of this title, such devices must be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary is established by competent evidence.
4. Any official traffic-control device placed pursuant to the provisions of this title and purporting to conform to the lawful requirements pertaining to such devices must be presumed to comply with the requirements of this title, unless the contrary is established by competent evidence.

Sec. 24-14-5. Traffic - control signal legend.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-05.

39-10-05. Traffic-control signal legend.

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow may be used, except for special pedestrian signals carrying a word or legend, and said lights must indicate and apply to drivers of vehicles and pedestrians as follows:

1. Green indications:
 - a. Vehicular traffic facing a circular green indication may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
 - b. Vehicular traffic facing a green arrow indication, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
 - c. Unless otherwise directed by a pedestrian-control signal as provided for in section 39-10-06, pedestrians facing any green indication, except when the sole green indication is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.
2. Steady yellow indication:
 - a. Vehicular traffic facing a steady circular yellow or yellow arrow indication is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic may not enter the intersection.
 - b. Pedestrians facing a steady circular yellow or yellow arrow indication, unless otherwise directed by a pedestrian-control signal as provided for in section 39-10-06,

are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian may then start to cross the roadway.

3. Steady red indication:
 - a. Vehicular traffic facing a steady circular red indication alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain standing until an indication to proceed is shown, except as provided for in subdivision c.
 - b. Vehicular traffic facing a steady red arrow indication may not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make a movement permitted by another indication, must stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and must remain standing until an indication permitting the movement indicated by the red arrow is shown except as provided for in subdivision c.
 - c. Except when a sign is in place prohibiting a turn, vehicular traffic facing any steady red indication may cautiously enter the intersection to turn right, or to turn left from a one-way street into a one-way street, after stopping as required by subdivisions a and b. Such vehicular traffic shall yield the right of way to pedestrians lawfully within adjacent crosswalk and to other traffic lawfully using the intersection.
 - d. Unless otherwise directed by a pedestrian-control signal as provided for in section 39-10-06, pedestrians facing a steady circular red or red arrow indication alone may not enter the roadway.
4. In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section are applicable, except as to those provisions which by their nature can have no application. Any stop required must be made at a sign or marking on the pavement indicating where the stop must be made, but in the absence of any such sign or marking the stop must be made at the signal.

Sec. 24-14-6. Flashing signals.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-07.

39-10-07. Flashing signals.

1. Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign, it requires obedience by vehicular traffic as follows:
 - a. Flashing red (stop indication). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line, or, if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it, and the right to proceed is subject to the rules applicable after making a stop at a stop sign.
 - b. Flashing yellow (caution indication). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such indication only with caution.

- c. Flashing red arrow and flashing yellow arrow indications have the same meaning as the corresponding flashing circular indications, except that they apply only to drivers of vehicles intending to make the movement indicated by the arrow.
2. This section does not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings is governed by the requirements set forth in section 39-10-41.

Sec. 24-14-7. Interference with official traffic - control device or railroad sign or signal.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-07.3.

39-10-07.3. Interference with official traffic-control device or railroad sign or signal.

A person may not, without lawful authority, attempt to or in fact alter, deface, injure, knock down, remove, or interfere with the operation of any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

Sec. 24-14-8. Drive on right side of roadway.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-08.

39-10-08. Drive on right side of roadway - Exceptions.

1. Upon all roadways of sufficient width a vehicle must be driven upon the right half of the roadway, except as follows:
 - a. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
 - b. When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
 - c. Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or
 - d. Upon a roadway restricted to one-way traffic.
2. Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing must be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn in an intersection or into a private road or driveway.
3. Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle may be driven to the left of the centerline of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subdivision b of subsection 1. However, this

subsection may not be construed as prohibiting the crossing of the centerline in making a left turn into or from an alley, private road, or driveway.

Sec. 24-14-9. Overtaking a vehicle on the left.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-11.

39-10-11. Overtaking a vehicle on the left.

The following rules govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereinafter stated:

1. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and may not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
2. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and may not increase the speed of that driver's vehicle until completely passed by the overtaking vehicle.

Sec. 24-14-10. When overtaking on the right is permitted.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-12.

39-10-12. When overtaking on the right is permitted.

1. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
 - a. When the vehicle overtaken is making or about to make a left turn; or
 - b. Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.
2. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement may not be made by driving off the roadway.

Sec. 24-14-11. Limitations on overtaking on the left.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-13.

39-10-13. Limitations on overtaking on the left.

No vehicle may be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable, and in the event the passing movement involves

the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred feet [60.96 meters] of any approaching vehicle.

Sec. 24-14-12. Further limitations on driving on left of center of roadway.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-14.

39-10-14. Further limitations on driving on left of center of roadway.

1. No vehicle may be driven to the left side of the roadway under any of the following conditions:
 - a. When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.
 - b. When approaching within one hundred feet [30.48 meters] of or traversing any intersection or railroad grade crossing.
 - c. When the view is obstructed upon approaching within one hundred feet [30.48 meters] of any bridge, viaduct, or tunnel.
2. The foregoing limitations do not apply upon a one-way roadway, nor under the conditions described in section 39-10-08, nor to the driver of a vehicle turning left into or from an alley, private road, or driveway.

Sec. 24-14-13. No - passing zones.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-15.

39-10-15. No-passing zones.

1. The director and local authorities are hereby authorized to determine those portions of any highway under their respective jurisdiction where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.
2. Where signs or markings are in place to define a no-passing zone as set forth in subsection 1, no driver may at any time drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.
3. This section does not apply under the conditions described in section 39-10-08 nor to the driver of a vehicle turning left into or from an alley, private road, or driveway.

Sec. 24-14-14. One-way roadways and rotary traffic islands.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-16.

39-10-16. One-way roadways and rotary traffic islands.

1. The director and local authorities with respect to highways under their respective jurisdictions may designate any highway, roadway, part of a roadway, or specific lanes upon which vehicular traffic shall proceed in one direction at all or such times as shall be indicated by official traffic-control devices.
2. Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or at such times as shall be indicated by official traffic-control devices.
3. A vehicle passing around a rotary traffic island must be driven only to the right of such island.

Sec. 24-14-15. Driving on roadways laned for traffic.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-17.

39-10-17. Driving on roadways laned for traffic.

Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith apply:

1. A vehicle must be driven as nearly as practicable entirely within a single lane and may not be moved from such lane until the driver has first ascertained that such movement can be made with safety.
2. Upon a roadway which is divided into three lanes and provides for two-way traffic, a vehicle may not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.
3. Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.
4. Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

Sec. 24-14-16. Following too closely.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-18.

39-10-18. Following too closely.

1. The driver of a motor vehicle may not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.
2. The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or

motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this does not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.

3. Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles must be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision does not apply to funeral processions.

Sec. 24-14-17. Driving on divided highway.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-19.

39-10-19. Driving on divided highway.

Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle must be driven only upon the right-hand roadway, unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicle may be driven over, across, or within any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection as established by public authority, unless such crossing is specifically prohibited and such prohibition is indicated by appropriate traffic-control devices.

Sec. 24-14-18. Restricted access.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-20.

39-10-20. Restricted access.

No person may drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

Sec. 24-14-19. Closing road because of hazardous condition.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-21.1.

39-10-21.1. Closing road because of hazardous conditions - Posting of official traffic-control devices - Entering closed road prohibited.

1. The highway patrol or local law enforcement authorities having jurisdiction over a road may close a road temporarily due to hazardous conditions for the protection and safety of the public. If such a closing is made, the authority ordering the closing shall make every reasonable attempt to notify the public and, when practical, may post appropriate official traffic-control devices to advise motorists of the closing.

2. An individual, while operating a motor vehicle, may not knowingly enter a road closed which is posted with an appropriate traffic-control device at the point of entry.

Sec. 24-14-20. Vehicle approaching or entering intersection.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-22.

39-10-22. Vehicle approaching or entering intersection.

1. If a vehicle approaches or enters an intersection that does not have an official traffic-control device and another vehicle approaches or enters from a different highway at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right. If the intersection is T-shaped and does not have an official traffic-control device, the driver of the vehicle on the terminating street or highway shall yield to the vehicle on the continuing street or highway.
2. If a vehicle approaches an intersection that has traffic-control signals that usually exhibit different colored lights and the signals are not lit, the driver of the vehicle shall stop and yield as required under subsection 2 of section 39-10-24.
3. The right-of-way rule declared in this section is modified at through highways and otherwise as stated in this chapter.

Sec. 24-14-21. Vehicle turning left.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-23.

39-10-23. Vehicle turning left.

The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

Sec. 24-14-22. Stop signs and yield signs.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-24.

39-10-24. Stop signs and yield signs.

1. Preferential right of way may be indicated by stop signs or yield signs as authorized in section 39-07-03.
2. Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.

3. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, or, if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Provided, however, that if a driver is involved in a collision with a vehicle in the intersection or junction of roadways after driving past a yield sign without stopping, such collision is deemed prima facie evidence of the driver's failure to yield the right of way.

Sec. 24-14-23. Vehicle entering roadway.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-25.

39-10-25. Vehicle entering roadway.

The driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right of way to all vehicles approaching on the roadway to be entered or crossed.

Sec. 24-14-24. Vehicle to stop or yield the right of way for authorized emergency vehicle or vehicle used for maintaining the state highway system.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-26.

39-10-26. Vehicle to stop or yield the right of way for authorized emergency vehicle or vehicle used for maintaining the state highway system - Penalty.

1. Upon the immediate approach of an authorized emergency vehicle displaying a visible flashing, revolving, or rotating blue, white, or red light, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
2. If an authorized emergency vehicle is parked or stopped at the scene of an emergency and is displaying a flashing, revolving, or rotating blue, white, or red light, approaching traffic shall move to the right-hand edge or curb of the roadway and shall stop, but once having stopped, traffic may proceed past the scene at its own risk when the roadway is clear, except when otherwise directed by a police officer. If an authorized emergency vehicle is otherwise parked or stopped on the interstate system or on a multilane highway outside the limits of a city, and the authorized emergency vehicle is displaying a flashing, revolving, or rotating amber, blue, white, or red light, the driver of an approaching vehicle shall proceed with caution and yield the right of way by moving to a lane that is not adjacent to the

authorized emergency vehicle if the move may be made with due regard to safety and traffic conditions or if not, the driver shall proceed with due caution, reduce the speed of the vehicle, and maintain a safe speed for the road conditions.

3. If a vehicle operated by or under the control of the director used for maintaining the state highway system is parked or stopped on the interstate system or on a multilane highway outside the limits of a city, and the vehicle is displaying a flashing, revolving, or rotating amber or white light, the driver of an approaching vehicle shall proceed with caution and yield the right of way by moving to a lane that is not adjacent to the vehicle if the move may be made with due regard to safety and traffic conditions or if not, the driver shall proceed with due caution, reduce the speed of the vehicle, and maintain a safe speed for the road conditions.
4. This section does not operate to relieve the driver of an authorized emergency vehicle or a vehicle operated by or under the control of the director used for maintaining the state highway system from the duty to drive with due regard for the safety of all persons using the highway.
5.
 - a. Any individual who violates subsection 2 and causes an accident with an authorized emergency vehicle while the authorized emergency vehicle is displaying a visible flashing, revolving, or rotating amber, blue, white, or red light is guilty of an infraction.
 - b. An individual who violates subsection 3 and causes an accident with a vehicle operated by or under the control of the director used for maintaining the state highway system while the vehicle is displaying a visible flashing, revolving, or rotating amber or white light is guilty of an infraction.

Sec. 24-14-25. Highway construction and maintenance.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-26.1.

39-10-26.1. Highway construction and maintenance.

1. The driver of a vehicle shall yield the right of way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any highway construction or maintenance area indicated by official traffic-control devices.
2. The driver of a vehicle shall yield the right of way to any authorized vehicle obviously and actually engaged in work upon a highway wherever such vehicle displays flashing lights meeting the requirements of section 39-21-28.

Sec. 24-14-26. Limitations on turning around.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-36.

39-10-36. Limitations on turning around.

1. The driver of any vehicle may not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.

2. No vehicle may be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet [152.4 meters].

Sec. 24-14-27. Starting parked vehicle.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-37.

39-10-37. Starting parked vehicle.

No person may start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

Sec. 24-14-28. Turning movements and required signals.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-38.

39-10-38. Turning movements and required signals.

1. No person may turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety without giving an appropriate signal in the manner hereinafter provided.
2. A signal of intention to turn or move right or left when required must be given continuously during not less than the last one hundred feet [30.48 meters] traveled by the vehicle before turning.
3. No person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.
4. The signals required on vehicles by subsection 2 of section 39-10-39 may not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

Sec. 24-14-29. Stop signs and yield signs.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-44.

39-10-44. Stop signs and yield signs.

1. Preferential right of way at an intersection may be indicated by stop signs or yield signs as authorized in section 39-07-03.
2. Every stop sign and every yield sign must be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as near as practicable to the nearest line of the intersecting roadway.

3. Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.
4. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

Sec. 24-14-30. Emerging from alley, driveway, private road, or building.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-45.

39-10-45. Emerging from alley, driveway, private road, or building.

The driver of a vehicle emerging from an alley, driveway, private road, or building within a business or residence district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road, or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon.

Sec. 24-14-31. Overtaking and passing school bus.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-46.

39-10-46. Overtaking and passing schoolbus.

1. The driver of a vehicle meeting or overtaking from either direction any schoolbus stopped on the highway shall stop the vehicle before reaching the schoolbus when there is in operation on the schoolbus the flashing red lights or the stop sign on the control arm specified in section 39-21-18, and the driver may not proceed until the schoolbus resumes motion, the driver is signaled by the schoolbus driver to proceed, or the flashing red lights and the stop sign on the control arm are no longer actuated.
2. Every schoolbus must bear upon the front and rear thereof plainly visible signs containing the word "SCHOOLBUS" in letters not less than eight inches [20.32 centimeters] in height. When a schoolbus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or for a school-sanctioned activity, all markings thereon indicating "SCHOOLBUS" must be covered or concealed.
3. The operator of a schoolbus equipped with amber caution lights may activate those lights at a distance of not less than three hundred feet [91.44 meters] nor more than five hundred feet [152.4 meters] from the point where schoolchildren are to be received or discharged from the bus.
4. Every schoolbus must be equipped with a stop sign on a control arm and red visual signals meeting the requirements of section 39-21-18, which may only be actuated by the driver of

the schoolbus whenever the vehicle is stopped on the highway to receive or discharge schoolchildren.

5. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a schoolbus which is on a different roadway or when upon a controlled-access highway and the schoolbus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.
6. Every schoolbus must bear on the rear of the bus a plainly visible sign containing the words "THIS SCHOOLBUS STOPS AT ALL RAILROAD CROSSINGS".

Sec. 24-14-32. Permitting use of vehicle to violate section 39-10-46 prohibited.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-46.1.

39-10-46.1. Permitting use of vehicle to violate section 39-10-46 prohibited - Presumption of permission - Defense - Dual prosecution prohibited.

The registered owner of a motor vehicle may not permit that motor vehicle to be operated in violation of section 39-10-46. If a motor vehicle is seen violating section 39-10-46, it is a disputable presumption that the registered owner of the motor vehicle permitted that violation. It is a defense to a charge of violating this section that the registered owner of the vehicle was not operating the vehicle, if that registered owner identifies the person authorized by that owner to operate the motor vehicle at the time of the violation of section 39-10-46, or if that motor vehicle had been taken without the registered owner's permission. A person may not be charged both with violating this section and with violating section 39-10-46. Violation of this section is not a lesser included offense of violation of section 39-10-46.

Sec. 24-14-33. Unattended motor vehicle.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-51.

39-10-51. Unattended motor vehicle.

No person driving or in charge of a motor vehicle may permit it to stand unattended without first stopping the engine, effectively setting the brake thereon, and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

Sec. 24-14-34. Limitations on backing.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-52.

39-10-52. Limitations on backing.

1. The driver of a vehicle may not back the same unless such movement can be made with safety and without interfering with other traffic.
2. The driver of a vehicle may not back the same upon any shoulder or roadway of any controlled-access highway.

Sec. 24-14-35. Driving upon sidewalk.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-52.1.

39-10-52.1. Driving upon sidewalk.

No person may drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

Sec. 24-14-36. Obstruction to driver's view or driving mechanism.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-54.

39-10-54. Obstruction to driver's view or driving mechanism.

1. No person may drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.
2. No passenger in a vehicle may ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.

Sec. 24-14-37. Opening and closing vehicle door.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-54.1.

39-10-54.1. Opening and closing vehicle door.

No person may open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic, nor may any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

Sec. 24-14-38. Coasting prohibited.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-56.

39-10-56. Coasting prohibited.

1. The driver of any motor vehicle when traveling upon a downgrade may not coast with the gears or transmission of such vehicle in neutral.
2. The driver of a truck or bus when traveling upon a downgrade may not coast with the clutch disengaged.

Sec. 24-14-39. Following emergency vehicle too closely prohibited.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-57.

39-10-57. Following emergency vehicle too closely prohibited - Stopping by emergency vehicle.

The driver of a vehicle other than one on official business may not follow closer than five hundred feet [152.4 meters] behind an emergency vehicle displaying the appropriate light for that vehicle in an emergency. A driver of a vehicle other than one on official business may not stop the vehicle within two hundred feet [60.96 meters] of any emergency vehicle stopped in answer to a 911 emergency.

Sec. 24-14-40. Crossing fire hose.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-58.

39-10-58. Crossing firehose.

No vehicle may be driven over any unprotected hose of a fire department when laid down on any street, private road, or driveway to be used at any fire or alarm of fire without the consent of the fire department official in command.

Sec. 24-14-41. Garbage, glass, rubbish, and injurious materials on highway prohibited.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-59.

39-10-59. Garbage, glass, rubbish, and injurious materials on highway prohibited.

1. An individual may not deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, rubbish, or any other litter. In addition, an individual may not deposit upon a highway any other substance likely to injure a person, animal, or vehicle.
2. An individual who deposits, or permits to be deposited, upon a highway a destructive or injurious material shall immediately remove or cause to be removed the material.
3. An individual removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle.

Sec. 24-14-42. Operation of motor vehicle, tractor, or other vehicle prohibited on flood protective works.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-65.

39-10-65. Operation of motor vehicle, tractor, or other vehicle prohibited on flood protective works - Exception - Penalty.

1. Unless authorized by the authority in charge thereof, no person shall operate a motor vehicle, tractor, or other vehicle upon or across any flood protective works, including any dike or flood protective works constructed by a state or federal agency, or by any municipality or local subdivision of the state.
2. Any person violating the provisions of this section shall be liable to any person suffering injury as a result of the violation; and in addition, shall be guilty of a class B misdemeanor.

Sec. 24-14-43. Stop when traffic obstructed.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-68.

39-10-68. Stop when traffic obstructed.

No driver may enter any intersection or a marked crosswalk or drive onto a railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic-control signal indication to proceed.

Sec. 24-14-44. Funeral processions.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-72.

39-10-72. Funeral processions - Traffic regulations.

1. Notwithstanding any traffic-control device, a law enforcement officer leading a funeral procession may proceed through any intersection or make any turns or other movements necessary while leading the procession. The officer, without regard to any traffic-control device, may direct other drivers not in the funeral procession to stop, turn, proceed, or make other movements. When leading the funeral procession, the officer must be in a marked patrol vehicle and the vehicle's lighted headlamps, taillamps, and top-mounted and grill-mounted signal lamps must be displayed at all times during the procession.
2. Notwithstanding any traffic-control device or provision governing the right of way, whenever a law enforcement officer leading a funeral procession enters an intersection, the remainder of the vehicles in the funeral procession may follow through the intersection. Each vehicle in the procession, however, must exercise reasonable care toward any other vehicle or pedestrian on the roadway.
3. Notwithstanding any traffic-control device or provision governing rights of way and subject to the following conditions, vehicles in a funeral procession have the right of way.
 - a. All vehicles in a funeral procession must display lighted headlamps, taillamps, and flashing emergency lamps.
 - b. All vehicles in a funeral procession must follow the preceding vehicle in the procession as closely as is safe and practicable.
 - c. The driver of a vehicle in a funeral procession shall yield the right of way to an approaching emergency vehicle when directed to do so by a law enforcement officer or when the vehicle is giving an audible or visual signal.

- d. A vehicle that becomes separated from the funeral procession and the law enforcement escort, so that the procession is no longer continuous, must proceed to its destination in a safe and prudent manner obeying all traffic signals and general rules of the road.
4. Other vehicles shall conform to the following rules:
 - a. The driver of a vehicle may not drive between the vehicles comprising a funeral procession while those vehicles are in motion, except when authorized to do so by a law enforcement officer or when such vehicle is an emergency vehicle giving an audible or visible signal.
 - b. The driver of a vehicle not part of a funeral procession may not join a funeral procession for the purpose of securing the right of way granted under subsection 3.
 - c. The driver of a vehicle not in a funeral procession may not pass vehicles in such a procession on a two-lane highway or roadway.
 - d. The driver of a vehicle may pass a funeral procession on its left side on any multiple-lane highway whenever such passing can be done safely, unless the procession is in the farthest left lane, in which case passing is permissible on the right.
 - e. When a funeral procession is proceeding through a red signal as permitted by subsection 3, a vehicle that is not in the procession may not enter the intersection unless it can do so without crossing the path of the funeral procession. If the red signal changes to green while the funeral procession is still within the intersection, a vehicle facing a green signal may proceed, but the funeral procession has the right of way.

Article 15 is added to Chapter 24 to read:

Chapter 24 Article 15. N.D.C.C. Cross-reference – vehicle equipment and requirements.

The N.D.C.C. text has been repeated here for reference. The text was copied on or about June 15, 2015, unless there is a note listing a later date for a specific section. The text contained on the N.D.C.C. web site is the official version and should be consulted to verify accuracy of the text reproduced here.

Sec. 24-15-1. Operators must be licensed.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-06-01.

39-06-01. Operators must be licensed - Additional licensing - Penalty.

1. An individual, unless exempted in this section, may not drive any motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state unless the individual has a valid license as an operator under this chapter or a temporary operator's permit issued under chapter 39-20. An individual may not receive an operator's license unless and until that individual surrenders to the director all operator's licenses and permits issued to that individual by any jurisdiction. If a license issued by another jurisdiction is surrendered, the director shall notify the issuing jurisdiction of the surrender. An individual may not have more than one valid operator's license at any one time.

2. An individual licensed as an operator may exercise the privilege granted by the license on any highway in this state and may not be required to obtain any other license to exercise the privilege by any political subdivision having authority to adopt police regulations, except that municipalities may regulate occupations and may regulate the operation of taxicabs under subsection 27 of section 40-05-01.

Sec. 24-15-2. Restricted licenses.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-06-17.

39-06-17. Restricted licenses - Penalty for violation.

1. Upon issuing an operator's license or a temporary restricted operator's license under section 39-06.1-11, the director may impose restrictions suitable to a licensee's driving ability with respect to the type of motor vehicle, special mechanical control devices required on a motor vehicle that the licensee may operate, or any other restrictions applicable to the licensee as the director may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee. The director may either issue a special restricted class D license or may state the restrictions upon the usual license form. In the same manner, the director shall restrict licenses under section 39-16.1-09.
2. The director may issue a restricted class D license to operate the parent's, guardian's, grandparent's, sibling's, aunt's, or uncle's automobile to a minor, who is at least fifteen years of age, and otherwise qualified, upon the written recommendation of the parent or guardian. A minor may operate a motor vehicle that is not the parent's or guardian's to take the actual ability test. The parent, guardian, grandparent, sibling, aunt, or uncle at all times is responsible for any and all damages growing out of the negligent operation of a motor vehicle by a minor. A restricted class D license may not be issued to a minor unless the minor, accompanied by the parent or guardian, appears in person and satisfies the director that:
 - a. The minor is at least fifteen years of age;
 - b. The minor is qualified to operate an automobile safely;
 - c. It is necessary for the child to drive the parent's, guardian's, grandparent's, sibling's, aunt's, or uncle's automobile without being accompanied by an adult;
 - d. The minor has successfully completed an approved driver's education course that includes a course of classroom instruction and a course of behind-the-wheel instruction acceptable to the director or has successfully completed a course at an approved commercial driver training school; and
 - e. The minor has accumulated a minimum of fifty hours of supervised, behind-the-wheel driving experience in various driving conditions and situations that include night driving; driving on gravel, dirt, or aggregate surface road; driving in both rural and urban conditions; and winter driving conditions.
3. The provisions of subsection 2 do not authorize a minor to drive a commercial truck, motorbus, or taxicab except the holder of a restricted class D license may drive a farm motor vehicle having a gross weight of fifty thousand pounds [22679.62 kilograms] while used to transport agricultural products, farm machinery, or farm supplies to or from a farm when so operated within one hundred fifty miles [241.40 kilometers] of the driver's farm.

4. A minor with a restricted class D license issued under subsection 2 may operate the type or class of motor vehicle specified on the restricted license under the following conditions:
 - a. A restricted license holder must be in possession of the license while operating the motor vehicle.
 - b. An individual holding a restricted class D license driving a motor vehicle may not carry more passengers than the vehicle manufacturer's suggested passenger capacity.
 - c. An individual holding a restricted class D license driving a motor vehicle may not operate an electronic communication device to talk, compose, read, or send an electronic message while operating a motor vehicle that is in motion unless the sole purpose of operating the device is to obtain emergency assistance, to prevent a crime about to be committed, or in the reasonable belief that an individual's life or safety is in danger.
 - d. An individual holding a restricted class D license may not operate a motor vehicle between the later of sunset or nine p.m. and five a.m. unless a parent, legal guardian, or an individual eighteen years of age or older is in the front seat of the motor vehicle or the motor vehicle is being driven directly to or from work, an official school activity, or a religious activity.
5. Upon receiving satisfactory evidence of any violation of the restrictions of a license, the director may suspend or revoke the license but the licensee is entitled to a hearing as upon a suspension or revocation under this chapter.
6. It is a class B misdemeanor for an individual to operate a motor vehicle in any manner in violation of the restrictions imposed under this section except for the restrictions in subsection 4.
7. If a temporary restricted license is issued under section 39-06.1-11 and the underlying suspension was imposed for a violation of section 39-08-01 or equivalent ordinance, or is governed by chapter 39-20, punishment is as provided in subsection 2 of section 39-06-42. Upon receiving notice of the conviction the director shall revoke, without opportunity for hearing, the licensee's temporary restricted license and shall extend the underlying suspension for a like period of not more than one year.
8. If the conviction referred to in this section is reversed by an appellate court, the director shall restore the individual to the status held by the individual before the conviction, including restoration of driving privileges if appropriate.

Sec. 24-15-3. Unlawful use of license.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-06-40.

39-06-40. Unlawful use of license - Penalty.

1. It is a class B misdemeanor for an individual:
 - a. To display or cause or permit to be displayed or have in possession any canceled, revoked, fictitious, or fraudulently altered operator's license or nondriver photo identification card;
 - b. To lend that individual's operator's license or nondriver photo identification card to any other individual or knowingly permit the use of that individual's operator's license or nondriver photo identification card by another individual;

- c. To display or represent as an individual's own any operator's license or nondriver photo identification card not issued to that individual;
 - d. To fail or refuse to surrender to the director upon demand any operator's license or nondriver photo identification card that has been suspended, revoked, or canceled;
 - e. To permit any unlawful use of an operator's license or nondriver photo identification card issued to that individual; or
 - f. To use a false or fictitious name in any application for an operator's license or nondriver photo identification card or to knowingly make a false statement or to conceal a material fact or otherwise commit a fraud in the application.
2. Within five days of receiving a record of conviction or other satisfactory evidence of the violation of this section, the director shall revoke the individual's operator's license or nondriver photo identification card. The director may set the period of revocation, not to exceed six months.

Sec. 24-15-4. When lighted lamps are required.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-21-01.

39-21-01. When lighted lamps are required.

Subject to the exceptions for parked vehicles, every vehicle upon a highway within this state must display lighted headlamps, taillamps, and illuminating devices as required in this chapter for different classes of vehicles as follows:

1. At any time from sunset to sunrise, and every farm tractor upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise;
2. At any time when it is raining, snowing, sleet, or hailing or during other adverse driving conditions and these conditions do not render a person or vehicle on the highway clearly discernible at a distance of one thousand feet [304.8 meters] ahead; or
3. At any other time when visibility is impaired by weather, smoke, fog, or other conditions, or when there is insufficient light to render a person or vehicle on the highway clearly discernible at a distance of one thousand feet [304.8 meters] ahead. Stoplights, turn signals, and other signaling devices must be lighted as prescribed for the use of these devices.

Sec. 24-15-5. Lamp or flag on projecting load.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-21-13.

39-21-13. Lamp or flag on projecting load.

Whenever the load upon any vehicle extends to the rear four feet [121.92 centimeters] or more beyond the bed or body of the vehicle there must be displayed at the extreme rear end of the load, at the times specified in section 39-21-01, a red light or lantern plainly visible from a distance of at least six hundred feet [182.88 meters] to the sides and rear. The red light or lantern required under this section must be in addition to the red rear light required upon every vehicle. At any other time there must be displayed at the extreme rear end of a load a red flag or cloth not less than twelve

inches [30.48 centimeters] square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

Sec. 24-15-6. Muffler - Prevention of noise and smoke.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-21-37.

39-21-37. Muffler - Prevention of noise and smoke.

1. Every motor vehicle must at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person may use a muffler cutout, bypass, or similar device upon a motor vehicle on a highway.
2. The engine and power mechanism of every motor vehicle must be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

Sec. 24-15-7. Windshield - Must be unobstructed and equipped with wipers – Tinted windows.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-21-39.

39-21-39. Windshield - Must be unobstructed and equipped with wipers – Tinted windows.

1. A motor vehicle must be equipped with a windshield. An individual may not drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows which obstructs the driver's clear view of the highway or any intersecting highway.
2. The windshield on a motor vehicle must be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which must be constructed as to be controlled or operated by the driver of the vehicle.
3. The windshield wiper upon a motor vehicle must be maintained in good working order.
4. An individual may not operate a motor vehicle with any object, material, or tinting displayed, affixed, or applied on the front windshield or any window unless the object, material, or tinting in conjunction with the windshield upon which it is displayed, affixed, or applied has a light transmittance of at least seventy percent or the object, material, or tinting in conjunction with a window other than the windshield upon which it is displayed, affixed, or applied has a light transmittance of at least fifty percent. This subsection does not apply to windows behind the operator if the motor vehicle is equipped with outside mirrors on both sides that meet the requirements of section 39-21-38.

Sec. 24-15-8. Child restraint devices.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-21-41.2.

39-21-41.2. Child restraint devices - Evidence.

1. If a child, under seven years of age, is present in any motor vehicle, that motor vehicle must be equipped with at least one child restraint system for each such child. However, a child under the age of seven who is at least fifty-seven inches [1.45 meters] tall and who weighs at least eighty pounds [36.28 kilograms] is not required to use a child restraint system. The child restraint system must meet the standards adopted by the United States department of transportation for those systems [49 CFR 571.213]. While the motor vehicle is in motion, each such child must be properly secured in the child restraint system in accordance with the manufacturer's instructions. A child weighing more than forty pounds [18.14 kilograms] may be restrained by a lap belt if the vehicle is not equipped with lap and shoulder belts or if all lap and shoulder belts are in use by other occupants. While the motor vehicle is moving, each child of seven through seventeen years of age who is in the motor vehicle must be in an approved child restraint system in accordance with the manufacturer's instructions or correctly buckled in a seatbelt. Use of child restraint systems and seatbelts is not required in motor vehicles that were not equipped with seatbelts when manufactured. If a child is being transported in an emergency situation, this section does not apply.
2. Violation of this section is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation.

Sec. 24-15-9. Use of safety belts required in certain motor vehicles - Enforcement - Evidence.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-21-41.4.

39-21-41.4. Use of safety belts required in certain motor vehicles - Enforcement - Evidence.

Subject to the limitations of this section and section 39-21-41.5, a driver may not operate upon a highway a motor vehicle designed for carrying fewer than eleven passengers, which was originally manufactured with safety belts unless each front seat occupant is wearing a properly adjusted and fastened safety belt. This section does not apply to a child in a child restraint or seatbelt in accordance with section 39-21-41.2; to drivers of implements of husbandry; to operators of farm vehicles as defined in subsection 5 of section 39-04-19; to rural mail carriers while on duty delivering mail; to an occupant with a medical or physically disabling condition that prevents appropriate restraint in a safety belt, if a qualified physician states in a signed writing the nature of the condition and the reason restraint is inappropriate; or when all front seat safety belts are in use by other occupants. A physician who, in good faith, provides a statement that restraint would be inappropriate is not subject to civil liability. A violation for not wearing a safety belt under this section is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation.

Article 16 is added to Chapter 24 to read:

Chapter 24 Article 16. N.D.C.C. Cross-reference – speed.

The N.D.C.C. text has been repeated here for reference. The text was copied on or about June 15, 2015, unless there is a note listing a later date for a specific section. The text contained on the N.D.C.C. web site is the official version and should be consulted to verify accuracy of the text reproduced here.

Sec. 24-16-1. Basic rule.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-09-01.

39-09-01. Basic rule - Penalty for violation.

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. Any person who, by reason of careless driving as herein defined, causes and inflicts injury upon the person of an operator of snow removal equipment engaged in snow removal operations or causes damage in excess of one thousand dollars to snow removal equipment engaged in snow removal is guilty of an infraction. As used in this section, "snow removal equipment" means a vehicle that is operated by a person employed by or on behalf of an authority in charge of the maintenance of the highway to perform winter maintenance snow and ice removal, including plowing, hauling away, salting, and sanding.

Sec. 24-16-2. Speed limitation.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-09-02.

39-09-02. Speed limitations.

1. Subject to the provisions of section 39-09-01 and except in those instances when 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:
 - a. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24meters] of a grade crossing of any steam, electric, or street railway when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last two hundred feet [60.96 meters] of the driver's approach to such crossing, the driver does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred feet [121.92 meters] in each direction from such crossing.

- b. Twenty miles [32.19 kilometers] an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours, unless a lower speed is designated or posted by local authorities.
 - c. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24 meters] and in traversing an intersection of highways when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last fifty feet [15.24 meters] of the driver's approach to such intersection, the driver does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred feet [60.96 meters] from such intersection.
 - d. Twenty miles [32.19 kilometers] an hour when the driver's view of the highway ahead is obstructed within a distance of one hundred feet [30.48 meters].
 - e. Twenty-five miles [40.23 kilometers] an hour on any highway in a business district or in a residence district or in a public park, unless a different speed is designated and posted by local authorities.
 - f. Fifty-five miles [88.51 kilometers] an hour on gravel, dirt, or loose surface highways, and on paved two-lane county and township highways if there is no speed limit posted, unless otherwise permitted, restricted, or required by conditions.
 - g. Sixty-five miles [104.61 kilometers] an hour on paved two-lane highways if posted for that speed, unless otherwise permitted, restricted, or required by conditions.
 - h. Seventy miles [112.65 kilometers] an hour on paved and divided multilane highways, unless otherwise permitted, restricted, or required by conditions.
 - i. Seventy-five miles [120.70 kilometers] an hour on access-controlled, paved and divided, multilane interstate highways, unless otherwise permitted, restricted, or required by conditions.
2. The director may designate and post special areas of state highways where lower speed limits apply. Differing limits may be established for different times of the day within highway construction zones which are effective when posted upon appropriate fixed or variable speed limit signs.
 3. Except as provided by law, it is unlawful for any person to drive a vehicle upon a highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed by law or established pursuant to law.
 4. In charging a violation of the provisions of this section, the complaint must specify the speed at which the defendant is alleged to have driven and the speed which this section prescribes is prima facie lawful at the time and place of the alleged offense.

Sec. 24-16-3. When local authorities may or shall alter maximum speed.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-09-03.

- 39-09-03. When local authorities may or shall alter maximum speed - Limits – Signs posted.
1. Whenever local authorities in their respective jurisdictions, on the basis of an engineering and traffic investigation, determine that the maximum speed permitted under this title is greater or less than is reasonable and safe under the conditions found to exist upon a

highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which:

- a. Decreases the limit at intersections;
 - b. Increases the limit within an urban district but not to more than fifty-five miles [88.51 kilometers] per hour; or
 - c. Decreases the limit outside an urban district.
2. Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under this chapter for an urban district.
 3. Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.
 4. Any alteration of maximum limits on state highways or extensions thereof in a municipality by local authorities may not be effective until such alteration has been approved by the director.
 5. Not more than six such alterations as hereinabove authorized may be made per mile [1.61 kilometers] along a street or highway, except in the case of reduced limits at intersections, and the difference between adjacent limits may not be more than ten miles [16.09 kilometers] per hour.

Sec. 24-16-4. Minimum speed limits.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-09-09.

39-09-09. Minimum speed limits.

1. An individual may not drive a motor vehicle at a reduced speed so as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.
2. If the director and the superintendent of the highway patrol, acting jointly, or a local authority within the authority's jurisdiction, determines on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the safe, normal, and reasonable movement of traffic, the director and superintendent or the local authority may determine and declare a minimum speed limit below which an individual may not drive a vehicle except when necessary for safe operation or in compliance with law, and that limit is effective when posted upon appropriate fixed or variable signs.

Article 17 is added to Chapter 24 to read:

Chapter 24 Article 17. N.D.C.C. Cross-reference – parking.

The N.D.C.C. text has been repeated here for reference. The text was copied on or about June 15, 2015, unless there is a note listing a later date for a specific section. The text contained on the N.D.C.C. web site is the official version and should be consulted to verify accuracy of the text reproduced here.

Sec. 24-17-1. Parking privileges for mobility impaired.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-01-15.

- (1) Certificate or license plate not prominently displayed.
- (2) Mobility impaired parking.

Article 18 is added to Chapter 24 to read:

Chapter 24 Article 18. N.D.C.C. Cross-reference – railroads.

The N.D.C.C. text has been repeated here for reference. The text was copied on or about June 15, 2015, unless there is a note listing a later date for a specific section. The text contained on the N.D.C.C. web site is the official version and should be consulted to verify accuracy of the text reproduced here.

Sec. 24-18-1. Obedience to signal indicating approach of train.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-41.

39-10-41. Obedience to signal indicating approach of train.

1. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters] from the nearest rail of such railroad, and may not proceed until the driver can do so safely. The foregoing requirements apply when:
 - a. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
 - b. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
 - c. A railroad train approaching within approximately one thousand three hundred twenty feet [402.34 meters] of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or
 - d. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
2. No person may drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. No person may drive any vehicle past any human flagman at a railroad crossing until the flagman signals that the way is clear to proceed.

Sec. 24-18-2. All vehicles must stop at certain railroad grade crossings.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-42.

39-10-42. All vehicles must stop at certain railroad grade crossings.

The department of transportation and local authorities, with respect to highways under their respective jurisdiction, are hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters] from the nearest rail of such railroad and shall proceed only upon exercising due care.

Sec. 24-18-3. Certain vehicles must stop at all railroad grade crossings.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10-43.

39-10-43. Certain vehicles must stop at all railroad grade crossings.

1. The driver of a bus carrying passengers, or of any schoolbus, or of any vehicle carrying any chlorine, empty or loaded cargo tank vehicles used to transport dangerous articles or any liquid having a flashpoint below two hundred degrees Fahrenheit [93.33 degrees Celsius], cargo tank vehicles transporting a commodity having a temperature above its flashpoint at the time of loading, certain cargo tank vehicles transporting commodities under special permits issued by the hazardous materials regulations board, and every motor vehicle which must have the following placards: "explosives", "poison", "flammable oxidizers", "compressed gas", "corrosives", "flammable gas", "radioactive", or "dangerous", before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters] from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train and may not proceed until the driver can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing such crossing and the driver may not manually shift gears while crossing the track or tracks.
2. No stop need be made at any such crossing at which traffic is controlled by a police officer. For the purposes of this section, a United States marshal must be considered a police officer.
3. No stop need be made at a crossing that the director has designated as an out-of-service crossing and which is clearly marked by signs bearing the words "Tracks out of service" or "Exempt" in conspicuous places on each side of the crossing.
4. The designation must be limited to use at crossings where track has been abandoned or its use discontinued.
5. The director shall notify the road authority and any railway company of a crossing under the jurisdiction of that railway company which the director has designated as an out-of-service crossing under this section and the road authority shall erect signs bearing the words "Tracks out of service" or "Exempt" in conspicuous places on each side of the crossing.

6. All signs must conform to the manual on uniform traffic-control devices as provided under section 39-13-06.

Article 19 is added to Chapter 24 to read:

Chapter 24 Article 19. N.D.C.C. Cross-reference – bicycles, motorcycles, snowmobiles and off-highway vehicles.

The N.D.C.C. text has been repeated here for reference. The text was copied on or about June 15, 2015, unless there is a note listing a later date for a specific section. The text contained on the N.D.C.C. web site is the official version and should be consulted to verify accuracy of the text reproduced here.

Sec. 24-19-1. Clinging to vehicle.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10.1-04.

39-10.1-04. Clinging to vehicle.

No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle may attach the same or the person's self to any vehicle upon a roadway, except a sled being pulled by a snowmobile.

Sec. 24-19-2. Riding on motorcycle.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10.2-02.

39-10.2-02. Riding on motorcycle.

1. A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator may not carry any other person nor may any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.
2. A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle.
3. No person may operate a motorcycle while carrying any package, bundle, or other article which prevents the person from keeping both hands on the handlebars.
4. No operator may carry any person, nor may any person ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

Sec. 24-19-3. Operating motorcycles on roadways laned for traffic.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10.2-03.

39-10.2-03. Operating motorcycles on roadways laned for traffic.

1. All motorcycles are entitled to full use of a lane and no motor vehicle may be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection does not apply to the operation of motorcycles two abreast in a single lane as authorized in subsection 4.
2. The operator of a motorcycle may not overtake and pass in the same lane occupied by the vehicle being overtaken.
3. No person may operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.
4. Motorcycles may not be operated more than two abreast in a single lane.
5. Subsections 2 and 3 do not apply to police officers in the performance of their official duties.

Sec. 24-19-4. Clinging to other vehicle.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10.2-04.

39-10.2-04. Clinging to other vehicle.

No person riding upon a motorcycle may attach the person's self or the motorcycle to any other vehicle on a roadway.

Sec. 24-19-5. Footrests.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10.2-05.

39-10.2-05. Footrests.

Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, must be equipped with footrests for such passenger.

Sec. 24-19-6. Equipment for motorcycle riders.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10.2-06.

39-10.2-06. Equipment for motorcycle riders.

1. No person under the age of eighteen years may operate or ride upon a motorcycle unless a safety helmet meeting United States department of transportation standards is being worn on the head of the operator and rider, except when participating in a lawful parade. If the operator of a motorcycle is required to wear a safety helmet, any passenger must also wear a safety helmet regardless of the age of the passenger.
2. This section does not apply to persons riding within an enclosed cab or on a golf cart.

3. No person may operate a motorcycle if a person under the age of eighteen years is a passenger upon that motorcycle and is not wearing a safety helmet as provided in subsection 1.

Sec. 24-19-7. Snowmobile registration - Title certificate - General requirements.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-24-02 and § 39-24-03.

39-24-02. Snowmobile registration - Title certificate - General requirements.

Except as hereinafter provided, no person may operate any snowmobile unless the snowmobile has been registered in accordance with the provisions of this chapter. Any snowmobile purchased after July 1, 1973, must be titled under the provisions of chapter 39-05 in order to be operated under the provisions of this section. Any snowmobile purchased prior to July 1, 1973, may be titled under the provisions of chapter 39-05.

39-24-03. Registration - Application - Issuance - Fees - Renewal.

1. Application for registration must be made to the department in a form as the department shall prescribe and furnish and must state the name and address of every owner of the snowmobile and be signed by at least one owner. A copy of the application must be carried on the person when operating and shall serve as evidence of registration for a period of not more than thirty days from the date of application.
2. Upon receipt of the application and the appropriate fee, the department shall register a snowmobile and assign a registration number and a certificate of registration. The registration number must be at least one and one-half inches [3.81 centimeters] in height and of a reflectorized material and must be securely affixed on each side of the snowmobile in a position as to provide clear legibility for identification. The certificate of registration must include information regarding the make, year, serial number, and name and address of the owner. The fee for registration of each snowmobile must be five dollars for any portion of the registration period and the registration period is for two years beginning October first of each odd-numbered year. The fee for a duplicate or replacement registration number or registration card which is lost, mutilated, or becomes illegible may not exceed five dollars. For each snowmobile registered under the provisions of this chapter, there must be assessed a snowmobile trail tax in the amount of forty-five dollars.
3. Every owner of a snowmobile shall renew the registration in a manner as the department shall prescribe, upon payment of the same registration fees provided in this section.
4. Upon application for registration as prescribed in this section, any snowmobile dealer as defined in section 39-24-01 must be issued registration numbers distinctively marked as dealer's registration numbers upon payment of the appropriate fee as prescribed in this section. The dealer's registration numbers must be used only on snowmobiles owned by the dealership.

Sec. 24-19-8. Rules for operation of snowmobiles.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-24-09.

39-24-09. Rules for operation of snowmobiles.

1. No person may operate a snowmobile upon the roadway, shoulder, or inside bank or slope of any road, street, or highway in this state except as provided pursuant to this chapter. No snowmobile may be operated at any time within the right of way of any interstate highway within this state except as provided in this section.
2. A snowmobile may make a direct crossing of a non-interstate street or highway provided:
 - a. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
 - b. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
 - c. The driver yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
 - d. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.
3. No snowmobile may be operated unless it is equipped with at least one headlamp, one taillamp, and brakes, all in working order, which conform to standards prescribed by rule of the director pursuant to the authority vested in the director by this code and this chapter.
4. The emergency conditions under which a snowmobile may be operated other than as provided by this chapter must be such as to render the use of an automobile impractical under such conditions at such period of time and location.
5. It is unlawful for any person to drive or operate any snowmobile in the following ways which are declared to be unsafe and a public nuisance:
 - a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
 - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
 - c. While under the influence of intoxicating liquor or a drug as defined in section 39-24.1-01, or a combination thereof.
 - d. Without a lighted headlamp and taillamp when required for safety.
 - e. In any tree nursery or planting in a manner which damages or destroys growing stock.
 - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the snowmobile exhaust system.
 - g. Upon any private land where the private land is posted by the owner or tenant prohibiting trespassing. The name of the person posting the land must appear on each sign in legible characters. The posted signs must be readable from the outside of the land and must be placed conspicuously at a distance of not more than eight hundred eighty yards [804.68 meters] apart, provided further that as to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes a posting of all the enclosed lands.
6. It is unlawful for any person to operate a snowmobile pursuant to chapter 39-24 without having in possession a valid driver's license, except as provided by section 39-24-09.1.
7. If a snowmobile is operated within the right of way of any road, street, or highway of this state under this chapter, during times or conditions that warrant the use of lights, the snowmobile operator shall travel in the same direction as the direction of motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way

traveled by the snowmobile. An operator of a snowmobile traveling on a snowmobile trail maintained by the parks and recreation department which is within the right of way of any road, street, or highway of this state is exempted from this rule. The operator shall wait for all traffic to clear the roadway before crossing bridges and other similar structures.

8. It is unlawful for any person to operate a snowmobile within a highway right of way as defined in subsection 38 of section 24-01-01.1 between April first and November first of any year.
9. No snowmobile may be operated at any time within the right of way of any highway within this state while towing a sled, skid, or other vehicle, unless the sled, skid, or other vehicle is connected to the snowmobile by a hinged swivel and secure hitch.
10. No person under the age of eighteen years may operate, ride, or otherwise be propelled on a snowmobile unless the person wears a safety helmet meeting United States department of transportation standards.
11. A person may not operate a snowmobile, and an owner of a snowmobile may not knowingly permit the snowmobile to be operated, upon any property maintained, leased, or owned by the state parks and recreation department to which the public has a right of access for snowmobile or other vehicular use, without a policy of liability insurance which insures the person named, and any person using the snowmobile with the express or implied permission of the person named, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of the snowmobile within this state, subject to the following limits, exclusive of interest and costs, with respect to each snowmobile: twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and twenty-five thousand dollars because of injury to or destruction of property of others in any one accident. Upon request of a law enforcement officer, a person operating a snowmobile shall provide proof of liability insurance to that officer within twenty days.
12. A snowmobile may not be operated within the right of way of any interstate highway within this state except:
 - a. For emergency purposes; or
 - b. Across an interstate highway on an overpass or underpass, except where otherwise prohibited by law or by signing, provided the snowmobile crosses on the extreme right side of the overpass or underpass.

Sec. 24-19-9. Operation by individuals - Minimum age.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-24-09.1.

39-24-09.1. Operation by individuals - Minimum age.

1. An individual under the age of ten may not operate a snowmobile unless the individual operates the snowmobile on private land. An individual ten or eleven years of age may not operate a snowmobile unless the individual operates the snowmobile on private land or the individual is in the presence of a parent or guardian pursuant to chapter 30.1-27, has completed a snowmobile safety training course as prescribed by the director of the parks

- and recreation department pursuant to chapter 28-32, and has received the appropriate snowmobile safety certificate issued by the director of the parks and recreation department.
2. An individual twelve years of age and over may not operate a snowmobile unless the individual is in possession of a valid driver's license, operates the snowmobile on private land, or unless the individual has completed a snowmobile safety training course as prescribed by the director of the parks and recreation department pursuant to chapter 28-32 and has received the appropriate snowmobile safety certificate issued by the director of the parks and recreation department.
 3. The failure of an operator to exhibit a snowmobile safety certificate upon demand to any official authorized to enforce this chapter is presumptive evidence that the individual is not the holder of the certificate.
 4. Fees collected from each individual receiving certification must be deposited into the snowmobile fund for purposes of establishing snowmobile safety programs.

Sec. 24-19-10. Penalties.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-24-11.

39-24-11. Penalties.

Any person who violates subsection 12 of section 39-24-09 must be assessed a fee of one hundred dollars. Any person who violates subdivision b or g of subsection 5 of section 39-24-09 is guilty of a class B misdemeanor. Any person who violates subdivision c of subsection 5 of section 39-24-09 is guilty of an infraction or a class B misdemeanor as determined by section 39-24.1-07. Any person who violates subsection 11 of section 39-24-09 is guilty of a class B misdemeanor and must be assessed a fine of at least one hundred dollars. Any person who violates any other provision of section 39-24-09 must be assessed a fee of twenty dollars. Any person, unless specifically exempted, who fails to register or fails to display a decal as required by sections 39-24-02 and 39-24-04 must be assessed a fee of fifty dollars. If the person provides proof of registration after the violation, the fee may be reduced by one-half. Any person who violates any other provision of this chapter for which a specific penalty is not provided must be assessed a fee of ten dollars.

Sec. 24-19-11. Off-highway vehicle registration.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-29-02 and § 39-29-03.

39-29-02. Off-highway vehicle registration.

Except as provided in this chapter, an individual may not operate an off-highway vehicle unless it has been registered under this chapter.

39-29-03. Registration - Application - Issuance - Fees - Renewal.

1. Application for registration must be made to the department of transportation in the form the department prescribes and furnishes. The registration must state the name and address of every owner of the off-highway vehicle and be signed by at least one owner. A copy of

the application is evidence of registration for the first thirty days after the date of application.

2. On receipt of an application and the appropriate fee, the department shall register the off-highway vehicle and assign a registration number and a certificate of registration. In addition, the department shall issue a decal made of reflectorized material which contains the registration number or the department shall issue one distinctive number plate upon the request of the owner. The operator of an off-highway vehicle shall securely affix and display the decal or the plate in a position as to provide clear legibility for identification. The certificate of registration must include information regarding the make, year, serial number, and name and address of the owner.
3. The fee for registration of each off-highway vehicle is five dollars for a registration period of two years. For a duplicate or replacement registration number or registration card which is lost, mutilated, or becomes illegible, the department may charge a fee of not more than five dollars. For each off-highway vehicle registered under this chapter, there is an off-highway vehicle trail tax of fifteen dollars.
4. The owner of an off-highway vehicle shall renew the registration in the manner the department prescribes and pay the registration fees and applicable tax provided in subsection 3.
5. On application for registration as prescribed in subsection 2, and on payment of the amounts prescribed in subsection 3, an off-highway vehicle dealer is entitled to be issued registration numbers distinctively marked as dealer's registration numbers. The dealer's registration numbers may be used only on off-highway vehicles owned by the dealership.

Sec. 24-19-12. Operation of off-highway vehicles.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-29-09.

39-29-09. Operation of off-highway vehicles.

1. An individual may not operate an off-highway vehicle on the roadway, shoulder, or inside bank or slope of any road, street, or highway except as provided in this chapter. Except in emergencies, an individual may not operate an off-highway vehicle within the right of way of any controlled-access highway. An individual may operate a registered off-highway vehicle on a gravel, dirt, or loose surface roadway. An individual may operate a registered off-highway vehicle on a paved highway designated and posted at a speed not exceeding fifty-five miles [88.51 kilometers] per hour. A licensed driver over sixteen years of age may operate a registered class III off-highway vehicle on a paved highway designated and posted at a speed not exceeding sixty-five miles [104.61 kilometers] per hour. An individual may not operate an off-highway vehicle on a paved highway if the vehicle is unable to attain a speed, on a paved level surface, of at least thirty miles [48.28 kilometers] per hour.
2. The operator of an off-highway vehicle may make a direct crossing of a street or highway only if:
 - a. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

- b. The off-highway vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
 - c. The operator yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
 - d. In crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway.
3. Unless an individual is operating a class I off-highway vehicle, an individual may not operate an off-highway vehicle unless it is equipped with at least one headlamp, one taillamp, and brakes, all in working order, which conform to standards prescribed by rule of the director, except when under the direct supervision of an off-highway vehicle instructor teaching a certified off-highway vehicle safety training course, the requirement for a headlamp and taillamp may be waived.
4. The emergency conditions under which an off-highway vehicle may be operated other than as provided by this chapter are only those that render the use of an automobile impractical under the conditions and at the time and location in question.
5. An individual may not operate an off-highway vehicle in the following ways, which are declared to be unsafe and a public nuisance:
 - a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
 - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to another person or the property of another person.
 - c. While under the influence of intoxicating liquor or a controlled substance.
 - d. Without a lighted headlamp and taillamp except when used by an off-highway vehicle instructor during a certified off-highway vehicle safety training course.
 - e. In any tree nursery or planting in a manner that damages growing stock.
 - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the off-highway vehicle's exhaust system.
 - g. On any private land where the private land is posted prohibiting trespassing. The name and address of the person posting the land and the date of posting must appear on each sign in legible characters. The posted signs must be readable from outside the land and be placed conspicuously at a distance of not more than eight hundred eighty yards [804.68 meters] apart. Land entirely enclosed by a fence or other enclosure is sufficiently posted by posting of these signs at or on all gates through the fence or enclosure.
6. Except as provided in section 39-29-10, an individual may not operate an off-highway vehicle without having in possession a valid driver's license or permit.
7. When an off-highway vehicle is operated within the right of way of any road, street, or highway, during times or conditions that warrant the use of lights by other motor vehicles, the off-highway vehicle must be operated in the same direction as the direction of other motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the off-highway vehicle.
8. An individual may not operate an off-highway vehicle within the right of way of any highway while towing a sled, skid, or other vehicle, unless the object towed is connected to the off-highway vehicle by a hinged swivel and secure hitch.

9. An individual under the age of eighteen years may not operate, ride, or otherwise be propelled on an off-highway vehicle unless the person wears a safety helmet meeting United States department of transportation standards.
10. An operator of an off-highway vehicle may not carry a passenger while operating the vehicle unless the off-highway vehicle is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer.
11. Unless otherwise provided by law, an off-highway vehicle may be operated on an aggregate road surface only when designated as part of an active off-highway vehicle trail by the managing entity.
12. A person who is performing pest control or survey work for a political subdivision may operate an all-terrain vehicle on the bottom, backslope, inside slope, and shoulder of a highway other than a controlled-access highway.

Section 105-1-6 is amended to read:

Sec. 105-1-6. Vehicle parking.

Subsection (m) is added to Section 105-1-6 to read:

(m) *Commercial vehicles in residential districts.* Parking of commercial vehicles weighing in excess of 2.5 tons in residential districts is not allowed, except for deliveries.

Section 105-4-4 is amended to read:

Sec. 105-4-4. F Floodplain District.

(a) *Statutory authorization, findings of fact, purpose, and objectives.*

(1) *Statutory authorization.* This section is adopted pursuant to the provisions of N.D.C.C. chs. 40-47 and 61-16.2 to provide regulations designed to promote the public health, safety and general welfare of the citizens of the city. Therefore, the Board of City Commissioners of the City of Mandan does ordain as provided in this section.

(2) *Findings of fact.*

- a. The flood hazard areas of the city and its extraterritorial jurisdiction are subject to periodic inundation which can endanger life, result in loss of property, create health and safety hazards, disrupt commerce and governmental services, cause extraordinary public expenditures for flood protection and relief, and impair the tax base, all of which adversely affect the public health, safety, and general welfare.
- b. Flood losses can occur due to increases in flood heights and velocities caused by the cumulative effect of obstructions in the special flood hazard areas. Inadequately floodproofed, elevated or otherwise unprotected structures also contribute to flood losses.

(3) *Statement of purpose.* It is the purpose of this section to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- a. Protect human life and health;
- b. Minimize expenditure of public money for costly flood control projects;
- c. Minimize the need for rescue and relief efforts associated with flooding that are generally undertaken at the expense of the general public;
- d. Minimize prolonged business interruptions;
- e. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges that are located in special flood hazard areas;
- f. Help maintain a stable tax base by providing for the second use and development of special flood hazard areas so as to minimize future flood blight areas;
- g. Ensure that potential buyers are notified that property is in a special flood hazard area; and
- h. Ensure that those who occupy the special flood hazard areas assume responsibility for their actions.

(4) *Methods of reducing flood losses.* In order to accomplish its purposes, this section includes methods and provisions for:

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

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall

have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Appeal means a request for a review of the flood administrator's interpretation of any provision of this section or a request for a variance.

Base flood or 100-year flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) means the height of the base flood or 100-year flood, usually in feet above mean sea level.

Basement means any area of the building having its floor below ground level on all sides.

Best Available Data (BAD) means water elevation information from any source used to estimate or determine a base flood elevation (i.e. high water mark).

Conveyance or hydraulic conveyance means a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.

Development means any man-made change to land, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within a special flood hazard area.

Flood Insurance Rate Map (FIRM) means the official map issued by the Federal Emergency Management Agency where special flood hazard areas are designated as Zone A, AE, AO, AH, A1-A30 or A-99.

Flood Insurance Study (FIS) means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or from the unusual and rapid accumulation of runoff of surface waters from any source.

Floodproofing (Dry) means protection provided a portion of a structure to a specific elevation in relation to the base flood elevation, together with attendant utilities and sanitary facilities, which is watertight with walls that are substantially impermeable to the passage of water.

Floodway or regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

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

Manufactured home means a structure transportable in one or more sections, built on a permanent chassis and designed for use with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a recreational vehicle or travel trailer but does include a mobile home.

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction means structures for which the start of construction commenced on or after the effective date of the ordinance from which this section is derived.

Reasonably safe from flooding means base flood waters will not inundate the land or damage structures and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis.
- (2) 400 square feet or less when measured at the largest horizontal projections.
- (3) Designed to be self-propelled or towable by a light duty truck.
- (4) Designed for use as temporary living quarters for recreational camping, travel, or seasonal use, including, but not limited to, travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.

Special Flood Hazard Area (SFHA) means an area of land that would be inundated by a flood having a one percent chance of being equaled or exceeded in any given year.

Start of construction means and includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; the installation of streets or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms; or the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure means a walled and roofed building, including a manufactured home, and gas or liquid storage tanks that are primarily above ground.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market

value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Variance means a grant of relief from the requirements of this section which permits construction in a manner that would otherwise be prohibited by this section.

(c) *General provisions.*

- (1) *Lands to which this section applies.* This section shall apply to all areas of special flood hazard within the jurisdiction of the city.
- (2) *Basis for establishing the special flood hazard areas.* The scientific and engineering report entitled "The Flood Insurance Study for the City of Mandan, North Dakota" and accompanying Flood Insurance Rate Maps with an effective date of October 16, 2015, prepared by the Federal Emergency Management Agency, that identifies the special flood hazard areas within the city is hereby adopted by reference and declared to be a part of this section. The scientific and engineering report entitled "The Flood Insurance Study for Morton County, North Dakota" and accompanying Flood Insurance Rate Maps with an effective date of October 16, 2015, prepared by the Federal Emergency Management Agency, that identifies the special flood hazard areas within the city's extraterritorial jurisdiction is hereby adopted by reference and declared to be a part of this section. The Flood Insurance Studies are on file at City Hall, 205 2nd Ave. NW, Mandan, North Dakota.
- (3) *Compliance.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this section and other applicable regulations.
- (4) *Greater restrictions.* This section is not intended to repeal, remedy or impair any existing easements, covenants or deed restrictions. However, where this section and another section, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (5) *Interpretation.* In the interpretation and application of this section, all provisions shall be:
 - a. Considered as minimum requirements;

- b. Liberally construed in favor of the city; and
 - c. Deemed neither to limit nor repeal any other powers granted under state statutes.
- (6) *Warning and disclaimer of liability.* The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This section does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the city, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.
- (d) *Administration.*
- (1) *Development permit required.* A development permit shall be obtained before any earth moving or structure construction begins within any special flood hazard area established in subsections (c)(2) or (d)(3)(b) of this section. Application for a development permit shall be made on forms furnished by the city and may include, but not be limited to, plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage materials and drainage facilities; and the location of the foregoing. Plans should be submitted electronically whenever possible. Specifically, the following information is required:
- a. Elevation, in relation to mean sea level, of the lowest floor of all structures;
 - b. Elevation, in relation to mean sea level, to which any structure has been floodproofed;
 - c. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in subsection (e)(2)(b) of this section; and
 - d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (2) *Designation of the flood administrator.* The city administrator shall designate a city staff person or contract with a qualified company or person to administer and implement this section. The name and contact information for the flood administrator shall be posted on the city web site. The flood administrator shall be responsible for granting or denying development permit applications in accordance with the provisions of this section.
- (3) *Duties and responsibilities of the flood administrator.* Duties of the flood administrator shall include, but not be limited to:

- a. *Application review.*
 1. Review all development applications to determine that the requirements of this section have been satisfied.
 2. Review all development applications to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
 3. Review all development applications to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of subsection (e)(3)(a) are met.
- b. *Use of other base flood data.* When base flood elevation data has not been provided in accordance with subsection (c)(2) of this section, the flood administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements or other development in the floodplain are administered in accordance with subsection (e)(2) of this section.
- c. *Information to be obtained and maintained.*
 1. Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor of all new or substantially improved structures. Document whether or not the structure contains a basement.
 2. For all new or substantially improved floodproofed structures:
 - (i) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed;
 - (ii) Record the base flood elevation, in relation to mean sea level, of the site; and
 - (iii) Maintain the floodproofing certifications required in subsection (d)(1)c of this section.
 3. Maintain for public inspection all records pertaining to the provisions of this section.
- d. *Alteration of watercourses.* The flood administrator shall:
 1. Notify nearby communities, water resource districts and the North Dakota State Engineer, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal

Emergency Management Agency.

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and
 3. Notify the appropriate water resource district prior to removal or placement of fill within two hundred feet of the bank of a body of water during normal flow or stage.
- e. *Interpretation of flood insurance rate map (FIRM) boundaries.* Make interpretation, where needed, as to the exact location of the boundaries of the special flood hazard areas. The flood administrator shall document in writing the procedure followed and the criteria applied in making the interpretation. The person contesting the location of the boundary shall be given 30 days to appeal the interpretation as provided in subsection (d)(4) of this section.

(4) *Appeal and variance procedure.*

a. *Board of Adjustment.*

1. The board of adjustment shall hear and decide appeals and requests for variances from the requirements of this section.
2. The board of adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the flood administrator in the enforcement or administration of this section.
3. Those aggrieved by the decision of the board of adjustment, or any taxpayer, may appeal such decision to the district court as provided in N.D.C.C. § 40-47-11.
4. In passing upon such appeals, the board of adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this code; and:
 - (i) The danger that materials may be swept onto other lands to the injury of others;
 - (ii) The danger to life and property due to flooding or erosion damage;
 - (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) The importance of the services provided by the proposed facility to the community;

- (v) The necessity to the facility of a waterfront location, where applicable;
- (vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (vii) The compatibility of the proposed use with existing and anticipated development;
- (viii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (x) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (xi) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

b. *Variances.*

1. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in subsection (d)(4)a.4 of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
2. Upon consideration of the factors in subsection (d)(4)a.4 of this section and the purposes of this section, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this section.

c. *Conditions for variances.*

1. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

2. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, cause fraud on or victimization of the public as identified in subsection (d)(4)a.4 of this section, or conflict with existing local laws or ordinances.
5. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

d. *Documentation and notification.* The flood administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request

(e) *Provisions for flood hazard reduction.*

(1) *General standards.* In all areas of special flood hazard, the following standards are required:

a. *Anchoring.*

1. All new construction and substantial improvements, including additions, shall be anchored to prevent flotation, collapse or lateral movement of the structure.
2. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

b. *Construction materials and methods.*

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

c. *Utilities.*

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

d. *Subdivision proposals.*

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

(2) *Specific standards.* In all areas of special flood hazard where base flood elevation data have been provided as set forth in subsections (c)(2) or (d)(3)(b) of this section, the following provisions are required:

a. *Residential construction.* New construction and substantial improvement of any

residential structure shall have the lowest floor, including basement, elevated to at least two feet above the base flood elevation.

b. *Nonresidential construction.* Construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed to at least two feet above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
3. Be certified in a stamped, signed and dated document by a registered professional engineer or architect that the standards of this subsection are satisfied.

c. *Manufactured Homes.*

1. Manufactured homes shall be anchored in accordance with subsection (e)(1)a,2 of this section.
2. All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least two feet above the base flood elevation, and is securely anchored to an adequately anchored foundation system.

(3) *Floodways.* Located within the special flood hazard areas established in subsection (c)(2) of this section are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- a. Prohibit encroachments, including fill, new construction, substantial improvements and other development, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.
- b. If subsection (e)(3)a of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of subsection (e) of this section.

(f) *Violations; penalties.*

- (1) Violation of the provisions of this section or failure to comply with any of its requirements, including violations on conditions and safeguards established in connection with grants of variances, shall constitute a Class B misdemeanor. Any person who violates this section or fails to comply with any of its requirements shall, upon conviction thereof, be punished as specified in Section 1-9 of this code. In addition, the defendant may be required to pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- (2) Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 111-2-1 is amended to read:

Sec. 111-2-1. Adoption of code.

There is adopted by reference that certain building code known as the state building code, as developed by the state, as now or hereafter amended. The purpose of the building code is to establish rules and regulations of erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, uses, height, area, and maintenance of buildings and structures. A copy of the current edition of the state building code shall be kept on file in the offices of the building official. The State Building Code, adopted by the provisions of this chapter, and all subsequent editions, is amended, changed and altered as follows:

- (1) IRC Section 108.2 Schedule of Permit Fees, is amended by adding the following sentence to the end of the paragraph;

The fees for any building permit, amendments to permits or required inspections shall be established by resolution of the Board of City Commissioners.

- (2) IBC Section 1603.1.3 Roof snow load is amended to insert a minimum snow load design requirement of thirty pounds per square foot.
- (3) Section 1807 Footings and Foundations of the International Building Code, as adopted by the State Building Code, is amended by adding the following requirements relating to Minimum Requirements for Foundations for Stud Bearing Walls (as depicted in the table below), which shall supersede any of the alternate foundation provisions of Section 1807 of the International Building Code. Those provisions of Section 1807 of the International Building Code which conflict with the minimum requirements established herein by the City may apply, provided the building official approves their application due to unique soil conditions or building materials and provides a written statement verifying the applicable section.

TABLE NO. 1807.1.6.2(1)
FOUNDATIONS FOR STUD BEARING WALLS
MINIMUM REQUIREMENTS

NUMBER OF STORIES	THICKNESS OF FOUNDATION WALL		WIDTH OF FOOTINGS	THICKNESS OF FOOTINGS	DEPTH OF FOUNDATION BELOW GRADE
	(Inches)		(Inches)	(Inches)	(Feet)
	Concrete	Unit Masonry			
1	8	8	16	8	4
2	8	8	16	8	4
3	10	10	18	10	4

- (4) Foundation walls up to four feet high shall be eight inches wide and reinforced with (2) No. 4 rebar.
- (5) Foundation walls over four feet high up to 10 feet high shall be reinforced as follows: horizontal rebar--two No. 4 rebar within twelve inches of top of foundation, two No. 4 rebar in the lowest twelve inches of the wall, one No. 4 rebar in the middle one-third of the wall height. Any foundation wall that exceeds 10 foot in height needs plans stamped by an engineer.
- (6) All footings shall bear on undisturbed soil or engineered fill and be designed to distribute sufficiently the super-imposed loads to the particular type of soil upon which they bear and shall be reinforced with a minimum of (2) No. 4 rebar continuous.
- (7) Detached garage foundations may be constructed on concrete slabs, providing such slabs are at least four inches thick and thickened to at least twelve inches at all edges, and such thickened edges having a horizontal width of at least eight inches at their bottom and shall be reinforced with a minimum of (2) No. 4 rebar.
- (8) In addition to all other requirements, each building permit shall require that off-street parking areas and the driveways leading from the street thereto shall be graded and drained to dispose of all surface water accumulated within the area and paved with Portland cement, concrete or plant-mixed bituminous surface in accordance with the specifications therefore promulgated by the city engineer.
- (9) For determining value of a construction job for purposes of calculating a permit fee, the most current chart from the "International Code Council Building Valuation Data" shall be used with the following additions to the chart:
 - a. U Utility: Carports, Decks, Pole Barns, Sheds, Misc. = ½ value of Utility line
 - b. Crawl Space = \$15.00 per sq. ft.
 - c. Finished Basement = \$30.00 per sq. ft.
 - d. Single and Two Family second story = ½ value of main cost per sq. ft.
 - e. Manufactured Home:
 - i. New on owned lot – Actual cost of home value
 - ii. Used – under 10 yrs. Old = \$50.00 per sq. ft.

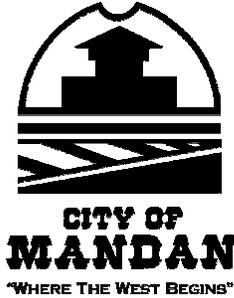
- iii. Used – Over 10 yrs. Old = \$25.00 per sq. ft.
- iv. MH Court – set permit fee by resolution.

Section 111-2-10 is amended to read:

Sec. 111-2-10. Building construction rules.

In addition to the provisions of this chapter, the following provisions shall apply to all work in connection with the erection, alteration, removal or demolition of buildings or structures and shall supersede any conflicting provisions of the State Building Code, as adopted by this chapter.

- (1) A Storm Water Management Plan must be approved by the Engineering and Planning Department before any land development or land disturbing is done.
- (2) A building Permit will not be issued until street curb and gutter and a street surface approved by the City Engineering and Planning Department is in place.
- (3) Temporary street signs, approved by the Fire Chief, shall be installed to identify all streets for Emergency Services before a building permit is issued.
- (4) All individual construction sites shall be required to have construction garbage containers or dumpsters on site to keep materials and garbage from blowing off site. On windy days garbage containers shall be tarped.
- (5) All Fire Hydrants shall be in working order.
- (6) No Certificate of Occupancy will be issued until completion of at least the first lift of asphalt pavement or concrete street and concrete driveway apron.
- (7) All construction sites shall have the Building Permit displayed at all times. Address numbers shall be painted on wall sheathing after the building is framed.
- (8) Suitable toilet facilities shall be provided for the use of workers during the construction of any building. These toilet facilities shall be maintained in sanitary condition.



Board of City Commissioners

Agenda Documentation

MEETING DATE: August 4, 2015
PREPARATION DATE: July 31, 2015
SUBMITTING DEPARTMENT: Engineering & Planning
DEPARTMENT DIRECTOR: Justin Froseth
PRESENTER: Robert Decker, Principal Planner
SUBJECT: Consider for approval Ordinance 1213 correcting previous annexation documents

STATEMENT/PURPOSE: Ordinance No. 1162 and Ordinance No. 1186 were adopted to annex certain properties into the city. The paperwork that was filed to record the annexations were prepared in a way that creates confusion over what was annexed.

BACKGROUND/ALTERNATIVES: The map that was included with Ordinance No. 1162 showed the boundary of the proposed subdivision that was to be developed in a portion of the annexed area and not the boundary of the annexed area. A corrected map is provided with this ordinance.

The description and map provided with Ordinance No. 1186 included area previously annexed with Ordinance No. 1162. A new description and map are provided with this ordinance.

ATTACHMENTS:

1. Ordinance
2. Map

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

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

RECOMMENDATION: Approve Ordinance No. 1213.

PROPOSED MOTION: Move to approve the first consideration of Ordinance No. 1213.

ORDINANCE NO. 1213

AN ORDINANCE CORRECTING THE DOCUMENTS CREATED FOR THE ANNEXATION OF CERTAIN LAND INTO THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA

WHEREAS, Ordinance No. 1162 was adopted to annex land into the City of Mandan, Morton County, North Dakota; and

WHEREAS, the map provided with the ordinance was not the correct map; and

WHEREAS, Ordinance No. 1186 was adopted to annex land into the City of Mandan, Morton County, North Dakota; and

WHEREAS, the description of the land to be annexed and the map provided included a portion of the land previously annexed by Ordinance No. 1162.

NOW THEREFORE BE IT RESOLVED by the Board of City Commissioners of the City of Mandan, Morton County, North Dakota as follows:

Section 1. Description of Parcels of Land Annexed.

The land annexed by Ordinance No. 1162 is a part of Government Lots 3 & 4 of Section 3, Township 138 North, Range 81 West of the 5th Principal Meridian, Morton county, North Dakota, being more particularly described as follows:

Commencing at the northwest corner of Section 3, Township 138 North, Range 81 West; thence South 00°25'37" West along the west boundary line of said Section 3 for 55.00 feet to the Point of Beginning, said point also being on the south Right of Way line of 19th Street SW; thence along said south Right of Way line the following seven (7) courses: thence North 89°47'30" East for 550.65 feet; thence North 0°12'30" West for 5.00 feet; thence North 89°47'30" East for 1550.00 feet; thence South 00°12'30" East for 10.00 feet; thence North 89°47'30" East for 450.00 feet; thence North 00°12'30" West for 10.00 feet; thence North 89°47'30" East for 90.49 feet to a point on the east boundary line of Government Lot 3 of said Section 3; thence south 00°08'11" West along said boundary line for 876.17 feet; thence South 89°47'30" West for 2645.48 feet to a point on the west boundary line of said Section 3; thence North 00°25'37" East along said west boundary line for 871.21 feet to the Point of Beginning. Said tract of land contains 53.00 Acres, more or less.

The land annexed by Ordinance No. 1186 that is in addition to the land annexed by Ordinance No. 1162 is described as follows:

Commencing at the Southwest corner of Keidels South Heart Terrace 3rd Addition, which is also the POB (Point of Beginning); thence South 89°45'55" East for 2038.90 feet; thence South 40°31'50" West for 219.38 feet; thence

South 43°49'05" East for 113.41 feet; thence South 04°43'37" East for 124.14 feet to a point on the south boundary line of Government Lot 3 of Section 3, Township 138 North, Range 81 West; thence South 89°45'55" West along said south boundary line for 683.89 feet to the northeast corner of the Southwest 1/4 of the Northwest 1/4 of said Section 3; thence South 00°15'03" West along the east boundary line of said Southwest 1/4 for 617.67 feet; thence North 89°28'39" West for 509.15 feet; thence South 40°14'45" West for 357.79 feet; thence North 68°40'57" West for 242.86 feet to a point of a curve to the Right having a radius of 390.00 feet; thence along said curve to the Right (the chord of which bears South 66°00'16" West, 102.86 feet) an arc length of 103.15 feet to the P.T. of said curve to the Right; thence South 73°34'52" West for 84.13 feet to the P.C. of a curve to the Right having a radius of 390.00 feet; thence along said curve to the Right (the chord of which bears South 81°47'26" West, 111.38 feet) an arc length of 111.76 feet to the P.T. of said curve to the Right; thence South 90° West for 76.69 feet to a point on the west boundary line of said Section 3; thence North 00°25'37" East along said west boundary line for 2094.28 feet to the Point of beginning. Said tract of land contains 38.37 Acres, more or less.

President, Board of City Commissioners

Attest:

City Administrator

First Consideration:

August 4, 2015

Second Consideration and Final Passage:

Publication Dates:

