

CITY OF MANDAN COMMERCIAL PROPERTY TAX EXEMPTION POLICY AND GUIDELINES

The City of Mandan is committed to high quality development in all parts of the city, to growing its commercial property base and to the improvement of the quality of life for its citizens through enhanced employment opportunities, reduced property taxes, increased sales and use tax revenues, and better access to needed products and services. To help meet these goals, the City Commission has adopted guidelines and criteria for granting business incentives. Applications are subject to the review and approval by the Mandan Growth Fund Committee and, ultimately, the Mandan City Commission.

Businesses that are primarily industrial, commercial, retail or service are eligible for property tax incentives for new and expanding businesses if they meet state requirements (NDCC 40.57.1).

It is the policy of the City to provide business incentives for the purpose of attracting new business and industry to the City and to encourage expansion and modernization of existing business facilities. The City will generally consider a property tax exemption only for business facilities and/or properties that provide one or more measureable public benefits.

The criteria outlined in this document are guidelines only. Each application will be evaluated on its own merits and is subject to the review and approval by the Mandan City Commission. The criteria are to be reviewed and updated at least annually and may be modified at any time to assure that the criteria address current priorities and needs.

2013 Legislative Changes

The North Dakota Legislature in 2013 approved Senate Bill 2314, which requires certification from the N.D. Department of Commerce Division of Economic Development and Finance that a project is a primary sector business.

Cities such as Mandan, with a population of less than 40,000, may grant a partial or complete exemption for a project operating in the retail sector if the governing body has obtained approval for exemptions of retail-oriented businesses from qualified electors during a city election held in conjunction with a statewide general election (November 2014). The governing body must also establish by resolution or ordinance the criteria that will be applied by the governing body to determine whether it is appropriate to grant an exemption for a project in the retail sector. Criteria must include:

- Potential positive or adverse consequences for existing retail sector businesses.
- Evaluation of short-term and long-term effects for other property taxpayers.
- A written agreement with the project operator, including performance requirements for which the exemption may be terminated if those requirements are not met.
- Evaluation of whether the project operator would locate within the municipality without the exemption.

Payments in lieu of taxes (PILOT) are not impacted by the legislation.

The legislative changes are effective for property tax exemptions granted by a municipality to initially become effective for taxable years beginning after Dec. 31, 2014. The N.D. Tax Department indicates this means a project must be operation in calendar year 2013 in order to not be subject to the new restrictions. Any exemption granted in calendar year 2014 would not go into effect until 2015, falling under the new law.

CRITERIA FOR THREE LEVELS OF EXEMPTION

SIGNIFICANT MEASURABLE BENEFITS				
PRIMARY SECTOR BUSINESSES¹ (or service sector for potential PILOT consideration)		TARGETED RETAIL & SERVICES² Validated market demand exceeds supply or service is missing from community. Examples include hardware/home improvement; clothing, shoe or department store; dry cleaning; movie theater; full-service car wash; restaurants, hotels. 1st to build in each of 3 general business districts: 1) Main Street/Downtown, 2) Memorial Highway/SE Mandan (south of Main), 3) I-94 Corridor.		
JOBS CREATION Numbers of Jobs ³	JOB QUALITY Wages & Benefits ⁴	INCREASED LOCAL USE TAXES⁵ • 1% Sales • 1% Restaurant & lodging • 2% hotel occupancy	ANNUAL SALES	TYPE & SCOPE OF PROJECT
BASE LEVEL/TIER 1 — 100% exemption for 2 years <i>Project should provide at least 1 of the significant, measureable benefits listed below.</i>				
Minimum 3 FTEs	Minimum \$9/hr, \$18,720/yr or 30% of median household income	\$5,000 to \$10,000 in local use tax collections	\$500,000 to \$1 million annual sales	<ul style="list-style-type: none"> • Retail/Services . Under 5,000 sf • Restaurants . fast food (counter service or drive-up only) • Hotels . minimum 20 rooms, investment of \$45,000/rm construction cost, no amenities
INTERMEDIATE LEVEL/TIER 2 — Exemption of 100% for 2 years, 75% year 3, 50% year 4, 25% year 5 <i>Project should provide: 1) at least 2 of the tier 1 benefits listed above, OR 2) at least 1 of the tier 2 benefits listed below</i>				
Minimum 3 FTEs, PLUS an additional FTE for each \$100,000 in structural value subject to exemption	Minimum \$20.35/hr, \$42,326/yr or 70% of median household income	\$10,001 to \$100,000 in local use taxes	\$1,000,001 million to \$10 million in annual sales	<ul style="list-style-type: none"> • Retail/Services . 5,000 to 10,000 sf • Restaurants . limited service (order w/ cashier, food brought to table) • Hotels . 21 to 40 rooms, \$60,000/rm construction cost, meeting room
TOP LEVEL/TIER 3 — 100% exemption for 5 years <i>Project should provide: 1) at least 3 of the tier 1 benefits listed above, OR 2) at least 1 of the tier 3 benefits listed below</i>				
Minimum 3 FTEs, PLUS an additional 2 FTEs for each \$100,000 in structural value subject to exemption	Minimum \$29.07/hr, \$60,466/yr or 100% of median household income	\$100,001+ in local use taxes	More than \$10 million in annual sales	<ul style="list-style-type: none"> • Retail/Services . 10,000+ sf • Restaurants . full service . (table side service) • Hotels . 40+ rooms, \$75,000/rm construction cost; meeting rooms and pool or convention center

1. Primary Sector Business · Through the employment of knowledge or labor, the business adds value to a product, process, or service that results in the creation of new wealth. The term includes tourism but does not include production agriculture.
2. Filling Market Gaps · A) Based on Nielsen Claritas, ESRI or other market data for Morton County. Community surveys may also be considered. Applicant, if approved, shall be required to submit annual sales tax report. B) Based on 2008 City of Mandan household survey of retail preferences.
3. Numbers of Jobs · By first anniversary of certificate of occupancy for owner occupied projects (or first anniversary of occupancy for lease projects)
4. Wages & Benefits · Based on 2011 City of Mandan average household income estimated at \$60,466. Employee benefits including retirement and insurance contributions may be quantified on an hourly basis and applied toward the threshold. Applicant, if approved, shall be required to submit annual payroll report.
5. Local Use Taxes · Applicant, if approved, shall be required to submit annual sales tax report.

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

OTHER POTENTIAL IMPACTS (POSITIVE AND NEGATIVE)

- Diversification of economic base (an industry not represented or under-represented in our business community)
- Ability of the project to attract people from other communities
 - Radius of draw for customers and frequency of patronage (often an inverse relationship with the market area increasing as the frequency decreases)
 - Uniqueness of business
 - Breadth of customer base
- Synergies with existing businesses in the community
 - Enhancing an industry sector that is a base of the local economy
 - Filling a gap in the supply chain for a core industry or business sector
 - Providing a product or service needed by other businesses in the region
- Growth potential of company and industry and potential spin-off benefits
- Adding value to local resources
- Making use of an underutilized asset (either facilities or land)
- Economic impact through increased construction activity, equipment purchases, additional product purchases, additional work activity, immediate and projected increases in property values, and impact on future tax collections.
- Impact on city services
 - Can the company be accommodated within existing service levels, or will additional capacity be needed?
 - Is the company locating where better use of existing services will take place or further the development plans of the City?
- Fostering entrepreneurship (boosting the economic feasibility of the project)

ADDITIONAL LIMITATIONS AND STANDARDS

- A new or expanded business in the community must not gain unfair advantage with existing competitors through use of the exemption. Applicant should be prepared to demonstrate that an unfair advantage is not gained over any possible existing competitor for the amount of exemption received.
- Property tax incentives must be approved prior to the start of construction.
- Projects that are primarily warehousing (for the storage of goods, raw materials or commodities) would not receive an incentive unless the owner proves need or provides other information to justify the exemption.
- Projects that are primarily speculative in nature, with unidentified business tenants or occupants, will not receive an incentive unless the owner can provide information to justify the exemption. An exception to this may be a major retail shopping center generating significant local sales tax revenue.
- Projects involving relocation of an existing business from another N.D. community to Mandan will not generally receive an incentive unless the business is expanding in some manner such as square footage, number of employees, or scope of products and services.
- Jobs created in the 12 months prior to the date of application may be considered toward meeting job creation thresholds as indicated in the criteria.
- Jobs must be based at the project location to apply toward the jobs creation thresholds. Out-of-town or traveling jobs stemming from the project location may be awarded partial credit in situations where permanent local residency of employees is likely.

- Annual reports - By February 15 of each year, the recipient of the exemption will file an annual employment verification report with the Bismarck - Mandan Development Association.
- An exemption that has been granted will be considered lapsed and invalid if construction has not begun in one year and completed in two years. Notice will be sent to the project operator 90 days prior to the exemption lapsing.

Improvements to Commercial

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

Payments in Lieu of Taxes

The City of Mandan may consider up to a five-year payment in lieu of tax (PILOT) in years 6-10 for a new or expanded business whereby a project may be required to pay only an approved percentage of taxes that would otherwise be due. This incentive is generally used only in rare circumstances for projects of extraordinary public benefit. Such requests shall be considered directly by the City Commission.

Sale to Non-Profit

If a property receiving a tax exemption is sold or in any way transferred within a period of time equal to 2.5 times the length of the exemption to an entity exempt from property tax, the property owner will be required to pay back all tax revenue given as part of the exemption.

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

Other Clawback Provisions

If the project fails to deliver on public benefits that were the basis for approval of an exemption, or any other requirements including timely reporting, the City Commission may revoke the exemption and/or require that all or part of the exemption be paid back. Project applicant may be required to enter into a performance or business incentive agreement if approved for assistance before any exemption becomes effective.