



AGENDA
MANDAN CITY COMMISSION
MARCH 5, 2019
ED "BOSH" FROELICH MEETING ROOM,
MANDAN CITY HALL
5:30 P.M.
www.cityofmandan.com

- A. ROLL CALL:
1. Roll call of all City Commissioners
- B. APPROVAL OF AGENDA:
- C. MINUTES:
1. Consider approval of the minutes from the February 19, 2019 Board of City Commission Regular meeting
- D. PUBLIC HEARING:
- E. BIDS:
- F. CONSENT AGENDA:
1. Consider letter of support for Redline Plumbing Flex PACE interest buydown.
 2. Consider approval of the following proclamations:
 - i. Proclaiming March, 2019 as General Aviation Appreciation Month in the City of Mandan.
 - ii. Proclaiming April 22, 2019 as Earth Day in the City of Mandan.
 - iii. Proclaiming April 27 – May 4, 2019 as Spring Clean-Up Week in the City of Mandan.
 3. Consider letter of support for E-C ND Investments, LLC Flex PACE interest buydown
 4. Consider transfer of a Class A Liquor License from the Silver Dollar Bar Inc. to Gregorio Didonna.
 5. Consider approval of a charity raffle permit for Mandan FFA Alumni at the Prairie West Golf Club for 3-1-19 to 6-7-19.
- G. OLD BUSINESS:
- H. NEW BUSINESS:
1. Consider Growth Fund Committee recommendations:
 - i. Storefront Improvement application for 1710 E Main St.
 - ii. Restaurant Rewards sales tax rebate for Balancing Goat Coffee Co.
 - iii. Restaurant Rewards Flex PACE interest buydown for Balancing Goat Coffee Co.
 - iv. Sunset of Restaurant Rewards Program on March 31, 2019
 2. Consider N.D. Opportunity Fund Loan Committee appointment

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3. Consider approval of concurrence of award and associated budget amendment for the Highway 810 segment of the I-94 resurfacing project.
 4. Introduction of new employees:
 - i. Lila Teigen, Real Property Appraiser III (Assessing Department)
 - ii. Jonathan Mathisen, Payroll and Benefits Technician (Finance Department)
 5. Legislative Update Number 4
- I. RESOLUTIONS AND ORDINANCES:
1. First consideration of Ordinance No. 1307 to amend and re-enact the Mandan Code of Ordinances relating to Animals
 2. Second Consideration of Ordinance 1301 Related to Changes to R3.2 Residential District
 3. Second Consideration of Ordinance 1291 Related to Sales of Fireworks and Fireworks Stands and Resolution Establishing Permit and Associated Fees
 4. Second Consideration of Ordinance 1306 Related to Backyard Chickens and Resolution Establishing Fees
- II. OTHER BUSINESS:
- III. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:
1. March 19, 2019
 2. April 2, 2019 (Board of Equalization - recessing to April 16)
 3. April 16, 2019 (Board of Equalization to follow regular meeting)
- IV. ADJOURN

The Mandan City Commission met in regular session at 5:00 p.m. on February 20, 2019 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Mayor Helbling called the meeting to order.

A. ROLL CALL:

1. *Roll Call of All City Commissioners.* Present were Mayor Helbling and Commissioners Braun, Davis, Larson and Rohr. Department Heads present were Finance Director Welch, City Administrator Neubauer, Fire Chief Nardello, Building Official Ouradnik, Business Development and Communications Director Huber, Planning & Engineering Director Froseth, City Planner Van Dyke, Assessor Markley, Police Chief Ziegler, Director of Public Works Bitz and Assistant City Attorney Oster. Absent: City Attorney Brown.

2. *Presentation of Retirement Acknowledgement for Mandan Fire Department Firefighter Bob Smith.* Mayor Helbling said that Bob started as a full time firefighter with the Mandan Fire Department on July 25, 1991 and he will continue to serve the community until February 28, 2019. Bob has provided many hours to the Fire Department as a Captain of which he has built, repaired and manufactured many projects. Mayor Helbling extended wishes for an enjoyable retirement and thanked him for his years of service to the City of Mandan. Fire Chief Nardello came forward to assist with the acknowledgement.

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the February 5, 2019 Board of City Commission regular meeting.* Commissioner Braun moved to approve the minutes as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes. Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

D. PUBLIC HEARING:

1. *First consideration of Ordinance 1306 related to backyard chickens.* Principal Planner Van Dyke presented a request for approval of the first consideration of Ordinance 1306 related to housing chickens within the city limits of Mandan. He said that this ordinance was brought by residents who live in Mandan. Previously, Travis Dengel provided a brief presentation for this request in 2018. Additional information was requested by the Planning and Zoning Commission that included a survey of communities in North Dakota that allow chickens, the number allowed, and commonalities within the ordinances such as disallowing roosters. Also provided were the benefits and consequences of permitting chickens and the means to mitigate negative impacts. Currently, the Mandan City Code does not allow chickens within City limits unless they are a part of a commercial-scale operation. The code being presented would allow up to four (4) chickens per lot with several restrictions to mitigate negative impacts to neighboring property owners.

Pursuant to the request, a preliminary Ordinance was drafted and sent to city departments and several other agencies for review which is the normal process for new or revised Ordinances. He presented a copy of Exhibit 4 that provided an acknowledgement of understanding of the

requirements and responsibilities which the applicant and owner would be required to sign prior to the issuance of a permit. He reported that the Planning and Zoning Commission, in a split vote (2 opposed) recommended approval of Ordinance 1306 at their January 2019 meeting. Subsequently, minor revisions were incorporated into the draft document, in particular, the chickens would not be allowed to be taken off the permitted site and located them somewhere else within the City. (Example: Chicken-sitting the chickens off the permitted site would not be allowed.) The structure for the chickens (coup) would be 8 feet in height vs. 5 feet in height. And the right of way was clearly defined. This would be a one year revocable permit, renewable on an annual basis. If this passes first consideration Planner Van Dyke said that he will present a Resolution for a suggested fee for the permit indicating that Planning and Zoning would be responsible for the issuance of that permit and collect the fees. The construction standards of the coup and quantities of chickens would also be the responsibility of Planning and Zoning. He stated that both the Engineering and Planning Department and Planning and Zoning Commission recommended approval of Ordinance 1306 with the revisions made as recommended.

Mayor Helbling announced this is a public hearing to consider Ordinance 1306 related to housing chickens within the city limits of Mandan. He invited anyone to come forward to speak for or against the ordinance.

Travis Dengel, 1707 Third Street Northeast, Mandan, came forward and stated that he introduced this Ordinance. The intent is to keep people responsible for their chickens and to allow this as an activity option for residents. He said he supports the Ordinance.

Mayor Helbling again invited anyone to come forward to speak for or against Ordinance 1306.

Commissioner Larson said she has concerns regarding this request, in particular, the oversight of by the Planning Department - should not be in charge of monitoring chicken coups. She does not have a problem with the chickens; rather it is a concern about staff time spent overseeing this which does not seem like a necessity. Commissioner Davis concurred with the concerns outlined by Commissioner Larson as it relates to staff time, and fee collection as well as compliance issues. Mayor Helbling commented that he thinks this matter is an attempt to be proactive rather than reactive and that residents will have chickens whether it is favorable or not to the City. Commissioner Rohr inquired if there should be a distinction between an urban (city) and rural (outside the city) setting and inquired how many requests have been presented to the City Planner. He commented that it seems to be unorthodox and not a common request in this day and age. Commissioner Braun commented that it is unorthodox and he agrees that the enforcement and staff time are his concerns too. Planner Van Dyke stated that he contacted Fargo to see how they are handling this and they said they regretted passing the Ordinance, after the fact, but they were not having a lot of issues and it didn't seem like there were a lot of people exercising their right to apply for a permit. The main reason people want them is for the eggs and then potentially butchering them.

Shawn Ouradnik came forward and stated he has 5 chickens at his house. There is not much smell. His children have a harness and walk them and they are soothing to watch as they are very low maintenance. They are pets and they do produce eggs without roosters. He supports this Ordinance.

Planner Van Dyke stated that the recommendation would be an initial permit fee of \$100 and it would be renewable annually.

Mayor Helbling announced a third time for anyone to come forward to speak for or against Ordinance 1306. Hearing none, this portion of the public hearing was closed.

Commissioner Braun moved to approve Ordinance 1306 as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: No; Commissioner Davis: Yes. Commissioner Larson: No; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

2. *First consideration of Ordinance 1291 related to fireworks sales and fireworks stands.* Principal Planner Van Dyke presented a request for approval of first consideration of Ordinance 1291 related to the sales of fireworks and fireworks stands. He stated that fireworks sales in the City of Mandan have been contentious for both residents and retailers due to the lack of specific regulations surrounding where retailers can conduct the sale of fireworks. Complaints have been received from the public regarding their location, traffic, or simple distaste for the activity itself being located close to residential areas. In contrast, the retailers are left with last-minute, often stressful situations in terms of identifying an appropriate location. This Ordinance will define where these stands are allowed and provide retailers the opportunity in advance of the fireworks season to identify an appropriate location to conduct their business. He said that city staff met both during and after the fireworks season to discuss this issue. Input was received from several departments including Fire and Building. Commissioner Rohr and Administrator Neubauer were also present for the discussions. Follow-up meetings were held with Natalie Pierce, Morton County Planning and Zoning Director, Malcolm Brown, City Attorney, and Lynn Gustin, Mandan Rural Fire Chief on behalf of Chief Nardello.

In summary, this Ordinance incorporates all of the above input as well as the recommendations of the Planning and Zoning Commission to remove any setback distance from residences. The proposed Ordinance amendment defines fireworks to align with North Dakota Century Code. It also defines fireworks stands, which includes specific requirements that must be met. Fireworks stands would be allowed in Ag zones on property 20,000 sq. ft. (approx. ½ acre) or larger or where the Retail group A use group is allowed (CA/CB/CC Commercial and MA/MC Industrial Districts). Fireworks stands would not be permissible within corporate limits; only permitted within the extra-territorial area.

Planning and Zoning unanimously voted to recommend approval of Ordinance 1291 as presented in Exhibit 1 at their January 2019 meeting. The Engineering and Planning Department and Planning and Zoning Commission recommend approval of Ordinance 1291 as drafted.

Mayor Helbling announced this is a public hearing to consider Ordinance 1291 related to fireworks sales and fireworks stands. He invited anyone to come forward to speak for or against the Ordinance. Mayor Helbling announced for a second and third time for anyone to come forward to speak for or against the Ordinance. Hearing none, the public hearing was closed.

Commissioner Davis asked for an explanation of the extra-territorial zone, there was a gray area of a fire stand that was deemed in the extra-territorial zone. He inquired about plans to eliminate the gray area. Planner Van Dyke said that the need for this Ordinance was for a formal permit and while forming this process – discussion ensued as to what is appropriate. We didn't define where the fireworks stand was assuming it was in a retail location. Ag zoning does not necessarily allow retail. Fireworks stands are kind of in no man's land that needs to be addressed since there have been issues coming up and this is not a replacement to the county permit that is issued rather this is the City of Mandan's localized permit that will be issued in conjunction with the state and county permit. This allows us to make sure it is going in precisely the location that they are declaring and that we have all the information that we need to make an educated decision on whether or not it is appropriate and city staff will issue our permit which they will take to the county as proof that they have already gotten the city's seal of approval.

Commissioner Rohr moved to approve Ordinance 1291 as presented in Exhibit 1. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes. Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

3. *First consideration of Ordinance 1301 related to changes to the R3.2 Residential District.* Principal Planner Van Dyke presented a request for approval of first consideration of Ordinance 1301 related to changes to the R3.2 Residential District. He explained that changes to residential districts were carried out in 2016. These changes included limiting the number of single-family residences to 10% of the total number of lots within a subdivision in the R3.2 Residential District; all other residences within this district are required to be twin home construction. Macedonia Hills and other areas were platted prior to the 2016 Ordinance change with the intent to allow a combination of single-family and twin home construction. Multiple inquiries from lot owners and real estate agents over the past few months brought attention to this particular restriction in the R3.2 Residential district. There has been controversy with the inability to construct single-family residences on certain lots. In discussion with city staff the ability of the City to administer the 10% limitation with the current permit tracking software is difficult and likely to result in an inadvertent issuance of a permit for non-conforming structure. The proposed revisions remove the 10% clause, defines twin home, and clarifies side setbacks for both twin homes and single-family dwellings. The Planning and Zoning Commission unanimously voted to recommend approval of Ordinance 1301 as presented in Exhibit 1.

Mayor Helbling announced this is a public hearing to consider the first reading of Ordinance 1301 related to changes to the R3.2 Residential District. He invited anyone to come forward to speak for or against the Ordinance. Mayor Helbling announced for a second and third time for anyone to come forward to speak for or against the Ordinance. Hearing none, the public hearing was closed.

Commissioner Braun moved to approve Ordinance 1301 as presented. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes. Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

4. *First consideration of Ordinance 1299 related to crematoriums.*

Principal Planner Van Dyke presented a request for approval of the first consideration of Ordinance 1299 related to crematoriums. He said that an inquiry related to allowable locations in Mandan for crematoriums brought attention to several different requirements whether or not a crematorium is public or privately operated. Presently, crematoriums are generally a part of a funeral home or mortuary. These uses are allowed in Commercial and the MA/MC industrial districts. Setbacks are determined by the respective zone and in some cases the setback is at zero feet. In contrast, public crematoriums require a conditional use permit and must be located in agricultural or industrial districts with a 200 foot setback from the property line. When researching this Planner Van Dyke found confusing language within the Ordinance that appears to apply different standards for a use solely based on being a public or private activity doesn't adequately mitigate the negative impact of the use. By applying the same standards to both public and private entities through the requirement of a conditional use permit, adjacent property owners have the opportunity to be involved in the process stemming from any application.

The proposed Ordinance provides a new definition for crematoriums that requires them to be an accessory use to a legally existing mortuary, funeral home, columbarium, or cemetery. They would not be allowed to operate as the primary use on a property. In addition, "facilities for cremation" is removed from the definition of funeral home or mortuary. The standards applied to public mausoleums, columbarium's and cemetery chapels are now applied to both public and private facilities. This includes being limited to industrial or agricultural zones.

What is a setback? In reviewing other municipal ordinances, Bismarck allows them as accessory to funeral home operations as well as through a special use permit as part of a cemetery (similar to Mandan's present Ordinance). Minneapolis requires crematoriums to be located within a cemetery and 1,000 ft. setback from a property line. Denver requires crematoriums to be a part of a cemetery, with a minimum 500 ft. setback from a residential district. Staff also asked for feedback from funeral homes in Mandan. Buehler Larson Funeral Home indicated 300 ft. from a residential zoning district was more in-line with other communities in and outside North Dakota. David Wise has provided comment that included several suggestions for definitions and he suggested 200 ft. from a residential zoning district. Tom Wiegel provided comments stating that crematoriums should be allowed only in the Industrial and Agricultural zones and located no closer than 300 ft. to a residential or commercial property line. Mr. Wiegel noted that while technological improvements have been made that reduce emissions, emissions are still a factor. Crematoriums produce a substantial amount of noise. City staff agreed with the recommendation of a 300 ft. setback from the property line based on other municipal ordinances and input from Mandan funeral homes. Mr. Wise came forward and provided his comments with focus on setbacks from the property line. The Planning and Zoning Commission voted to recommend approval of the Ordinance subject to changing the 300 ft. setback to 100 ft. excepting along adjacent right-of-way. This would take into consideration the somewhat large distance (at a minimum 66 ft. for local roads and up to 100 ft. or more for arterials such as Highway 1806) the right-of-way provides as a buffer to an adjacent property.

The Planning and Zoning Commission recommend approval of Ordinance 1299 as presented.

Commissioner Davis inquired if a bike trail would be considered a right of way. Planner Van Dyke replied that typically bike trails are considered a right of way. Mayor Helbling commented that Bismarck has a crematorium that was built in northwest Bismarck before any homes were built in the area. Most of the homeowners in that area do not even know the crematorium is there. He stated it would be better to be proactive than reactive when situations start to come up.

Commissioner Larson inquired if there is a requirement for a 200 ft. setback for a cemetery chapel but only a 100 ft. setback for a crematorium? Planner Van Dyke said it is the way the Ordinance was created and that all the recommendations had a 200 ft. setback and for this purpose, he was just looking at a crematorium. He said the standards could be relaxed for a columbarium or mausoleum.

Mayor Helbling announced this is a public hearing to consider the first reading of Ordinance 1299 related a crematorium. He invited anyone to come forward to speak for or against the Ordinance 1299.

Wes Eisenmann 1405 17th Street Southeast, Mandan, came forward and said he is opposed to the crematorium in Mandan. He commented that there is evidence that crematoriums produce dangerous pollutants which are linked to serious health problems, especially in young children. He voiced concern that the value of homes will decrease by 15-20% if there is a crematorium in the neighborhood. He requested the request be denied.

Mayor Helbling clarified that there is no formal request at this time for a crematorium.

Wade Meschke 1810 14th Avenue Southeast, Mandan came forward and voiced his opposition of allowing a crematorium site in Mandan. He requested the commissioners look at their own residential dwelling locations and think about how a crematorium would affect them if one were to be built in their neighborhood. He suggested the ordinance reflect a 100 ft. hard set back radius in which no development can occur with a 1,000 ft. setback radius and to notice the property as the zoning commission puts it “buyer beware area”. He inquired if the historical society has cleared this property for development in case of Native American artifacts that may be found in this area. He requested the Commission to consider the requests of the residents of Mandan (to deny this request for a crematorium) so that the property levels continue to rise and so the residents are not continuously dealing with the City Commission about this matter.

Delbert Thompson 712 Farmstead Court Southwest came forward and commented that he would reiterate what Mr. Meschke outlined. He believes the setbacks have to be hard setbacks and they need to be spelled out clearly in the Ordinance.

David Wise of DaWise-Perry Funeral Services 4614 Memorial Highway Mandan, came forward and stated he is in agreement with the Ordinance that Planning and Zoning has drafted. This allows for a 100 ft. hard setback. He said that he understood that the public hearing tonight is to define what a crematorium is and define the hard setback. He provided feedback to some of the statements made regarding property values, crematory emissions, CANA’s, etc. He explained that the site he is interested in sets on a 5 acre plot of land located along 19th Street Southeast, which is next to the Living Water Lutheran Church. He said that during last year there were

3,364 cremations in the state of North Dakota. He said that he would like to expand his business to offer this service in Mandan. The location he would like to operate from is close to the ND Veteran's Cemetery. The crematorium would be more than 500 ft. from the nearest residence. He plans to host a Q & A session at DaWise-Perry Funeral home on Sunday at 2:00 p.m. and he said anyone is welcome to attend.

Commissioner Davis inquired about an existing funeral home, changing it to an accessory regarding the crematory, why not have the crematory where the funeral home is located at this time rather than move it to a residential area? Mr. Wise said that his building is old and the cost of remodeling it would exceed the costs of building a new facility, for much less. Why he is looking at this particular location is because it sits empty and that area is for commercial use; and also to promote his business and with the rate of veterans we have in the state, this location would put his business closest to the Veteran's Cemetery. He would like increase his business to Bismarck as well as other cities in North Dakota. This facility would be state of the art, a larger reception area and at that location, it is on the edge of the City of Mandan and the master plan of City of Mandan is to have that property as commercial. He was open to answer any questions at this time.

Mayor Helbling commented that if taking Mr. Wise out of this matter, and if he goes ahead with his project or not, crematoriums are the up and coming thing of the future.

Mayor Helbling again announced this is a public hearing to consider the first reading of Ordinance 1299 related to crematoriums. He invited anyone to come forward to speak for or against the Ordinance 1299. Hearing none, this portion of the public hearing was closed.

Commissioner Larson commented that she believes it is interesting that Mayor Helbling commented that this is a matter to consider into the future. However, she said that is not what happened at the Planning and Zoning meeting. She has a concern that it went from a 300 ft. setback recommendation, to a 200 ft. recommendation from Mr. Wise and then to a 100 ft. recommendation. There is no recommendation for setback for right of way. She extended a thank you to Mr. Wise and to the residents for coming forward to voice concerns. She recommended reviewing this matter further and determine what would be the best outcome for any location in the City of Mandan regardless of this particular location. She said she did not believe that a 100 ft. setback is a consideration.

Commissioner Rohr said it appears that there should be further discussion to determine the best interests that will encompass the whole city. There should be an Ordinance in place and everything that goes with it.

Commissioner Braun commented the Ordinance should read that crematoriums should only be allowed in cemeteries as in Minnesota and Colorado. His rationale for stating that is because cemeteries are typically where people are laid to rest. The Mandan Union Cemetery comes to mind and it is out of the way, there is smoke involved depending on the wrapper that is used and there are issues. The cemetery could set 2-3 lots aside of which people can purchase and build the crematorium there. It is common knowledge that the Union Cemetery does not bring in

enough money. We are taking out of the tax funds on a regular basis so we can pay the maintenance fees. He suggested considering this recommendation as an option.

Mr. Wise responded to Commissioner Braun's suggestion and stated that it is his understanding that the City of Mandan is not able to sell the property by Mandan Union Cemetery. Even though the property was deeded to the City of Mandan, it is his understanding it cannot be sold. He said he would be willing to look into that option. Administrator Neubauer stated that the City constructed a building on that site for cemetery use purposes and cemetery staff is located in that building. The deed that goes back to 1938 indicates that the City cannot sell property to any individual however it is unknown if the property could be leased. Mayor Helbling commented that the area at the cemetery would be limited if a crematorium, a chapel or a parking lot, were all to be set in that location would probably not be sufficient. Administrator Neubauer recalled that the deed was very restrictive as to what the City can or cannot do at the cemetery with the property.

Commissioner Braun requested tabling this matter to research the possibility of building a crematorium at the cemetery and discuss at a later time. Administrator Neubauer said that updates to the Ordinance will need to occur no matter what the decision is on this matter. He recommended looking at the revisions that were brought tonight and in addition, if the Commission wishes, research can be conducted to rent or lease the property. Planner Van Dyke clarified that the property is zoned Agriculture and that will have to be changed to commercial. For any commercial business to go there it will require a zone change and platting and an annexation, so there are processes ahead of this even if an additional use permit could be applied. Short of a variance application Mr. Wise will have to go through almost every public hearing that the City would have in order to be permitted. However, without this Ordinance, at this point, Mr. Wise can relocate his crematorium anywhere butting the setback line next to a fence. As far as the overall commercial development there that is the plan of the City regardless of the crematorium. It will have to be appropriate and go through the process of changing plat and annexation.

Mayor Helbling stated that Planning and Zoning have recognized there is a problem with this Ordinance and action has to be taken by the City. Commissioner Braun stated he talked with individuals about the setback, he suggested that it be a minimum of 200 ft. setback. Commissioner Rohr concurred with the suggestion.

Sylvia Thompson, 712 Farmstead Court Southwest, Mandan, inquired if there was a setback from the property lines of the residential houses located in that area. Planner Van Dyke stated there is a property line set back that accepts the adjacent right of way which would allow any crematorium placement to be located closer to the road and away from the neighboring property. The hard setback applies to the non-right of ways and the adjacent properties do not have something pushing closer towards them. The purpose of the 100 ft. setback was to get it away from private development and pushing it towards the right of way.

Mayor Helbling said that if this first consideration was approved tonight, there would still be an opportunity to come back and amend the second consideration. Planner Van Dyke said that revisions can be made at this time.

Commissioner Larson stated she concurs with Commissioner Braun and thinks that the minimum should be 200 ft. She is not comfortable with 100 ft.

Commissioner Braun moved to approve Ordinance 1299 with the setback set at 200 ft. as presented in Exhibit 4. Commissioner Rohr seconded the motion.

Commissioner Rohr stated this is the first reading and there is still another reading that we could make changes after reviewing all the issues.

Sylvia Thompson, 712 Farmstead Court Southwest, Mandan came back to the podium and voiced concern that it makes no sense to have the setback closer to the houses. She inquired if an Ordinance could be drafted to protect the houses that are located there by creating an Ordinance that the setback would have to be from the property line of the houses, rather than the street. Mayor Helbling stated that was discussed at the Planning and Zoning meeting. Planner Van Dyke said a clause could be added to include a provision for a set back from residential district as a hard setback as well as a soft set back.

Mr. Meschke came back to the podium and said he meant to have a hard setback and a softset back. In Bismarck they were allowed to build as close or as far they wanted. The hard setback for the residents would have to be quite a distance. As it moves closer to 1806 or whatever road comes in, this is zoned as Agricultural, and the property is not annexed in, everyone on both sides of the road should have input.

Commissioner Davis recommended tabling this matter until further research is conducted to answer questions about setbacks.

The motion on the table is: Commissioner Braun moved to approve Ordinance 1299 with the setback set at 200 ft. as presented in Exhibit 4. Commissioner Rohr seconded the motion.

Mayor Helbling called for a roll call vote on the motion on the table:

Commissioner Rohr: No; Commissioner Davis: No. Commissioner Larson: No; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion failed.

Commissioner Rohr motioned to revisit this matter at a later time in order to allow Planner Van Dyke additional time to gather more information regarding hard and soft setbacks as discussed. Commissioner Larson seconded the motion.

Commissioner Davis said he agrees to the Ordinance. Regarding the right of ways, not just streets but including utilities. Planner Van Dyke indicated he will revise the verbiage to make sure it is clearly known the right of way and what the setback would be no less than 100 feet.

Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes. Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

5. *Conduct a public hearing to consider an appeal of the MARC decision on a mural at Many Visions located at 100 2nd Ave NW.*

Shawn Ouradnik, Building Official reported that Bobby Cochran, owner of Many Visions located at 100 2nd Avenue NW, has filed an appeal of the denial of a mural application by the Mandan Architectural Review Committee (MARC). He explained that Many Visions was cited by City Code Enforcement for placing a mural on the front of the building without a mural permit, required by Section 105-1-15(j) (9). Mr. Cochran, submitted an application after-the-fact for the mural and the matter was reviewed by MARC. The MARC denied the application at their November 13, 2018 meeting based on violation of the mural guideline #1 which prohibits murals being placed on the front of buildings. The MARC also denied the mural application due to zoning regulations surrounding downtown design related to aesthetic harmony with adjacent structures as outlined in Section 111-1-6 (2).

Due to the denial, an appeal was submitted by Bobby Cochran to the City in December 2018. Staff worked with Mr. Cochran to determine a date to present the appeal before City Commission and February 5, 2019 (postponed until February 19, 2019) was determined to be appropriate.

Director Ouradnik recommended upholding the decision of the MARC and to deny the appeal of the mural located at 100 2nd Avenue NW for the following reasons: No. 1: because of Non Compliance with Mural Guidelines; No. 2: due to violation of Section 111-1-6(2) related to downtown design and adjacent structure color pallets. A photo of the mural was presented on the overhead for viewing by the Commissioners and those in attendance. The reason for the denial was due to the mural guidelines in place in 2018 and the guidelines state that you cannot paint a mural or art depiction on the front of the building and this is the front of the building facing the street.

Mayor Helbling announced this is a public hearing to consider an appeal of the MARC decision on a mural at Many Visions located at 100 2nd Ave NW. He invited anyone to come forward to speak for or against the matter.

A second announcement was made to come forward to speak for or against the appeal. A third announcement was made to come forward to speak for or against the appeal. Hearing none, the public hearing was closed.

Director Ouradnik stated that Bobby Cochran was initially invited to the February 5, 2019 meeting, however, he was unable to attend. He was contacted about today's rescheduled date and time via email correspondence and he acknowledged this time would work. He failed to show up tonight.

Commissioner Braun moved to deny the appeal made by Bobby Cochran, the owner of Many Visions and to uphold the decision of MARC to remove the mural located at 100 2nd Ave NW based on the Mural guidelines and Section 111-1-6 (2) of the Mandan municipal code. Commissioner Davis seconded the motion.

Commissioner Rohr commented that uniformity with the adjacent buildings in downtown Mandan is important to the City. Mayor Helbling commented that there have been many Store Front improvement projects over the last several years to attain uniformity of the buildings.

Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

F. CONSENT AGENDA

1. *Consider approval of monthly bills.*
2. *Consider approval of a charity raffle permit for the 31:8 Project at Midway Lanes on March 2, 2019.*
3. *Consider amending the Engineering Service Agreement with AE2S to include final design of Raw Water Intake.*
4. *Consider approval of minor plat of Ol' Town Second Addition.*
6. *Consider approval for the Police Department to enter into a contract with Shallow Creek Kennels Inc. for the purchase of a narcotics detection/patrol police service dog and the training of the dog and handler.*
7. *Consider approval of 19th Street Trail project Cost Participation and Maintenance Agreement.*
8. *Consider Approval of the Police Department making grant application with the Office of Community Service Oriented Policing Services (COPS).*
9. *Consider approval of allowing the Police Department to assign Deputy Chief Bier to take on the duties of the fiscal officer for the ND Multijurisdictional Task Force Lottery Program Grant for the Metro Area Narcotics Task Force contingent on final approval by the ND Office of the Attorney General.*

Commissioner Larson requested Consent Item No. 5 be removed for discussion. Commissioner Rohr moved to approve the Consent Agenda items 1 through 4 and 6 through 9 as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

5. *Removed for Discussion:*

Consider the following abatements for: (i) Morton County Water Resource District dba Missouri West Water System (ii) Brandon Charvat (iii) Eileen M & Bryan L Giese (iv) Lloyd Deringer.

Commissioner Larson questioned requests since some are 2017 and it seems the last meetings have been heightened compared to previous years. She inquired if there was a timeframe for these abatements. Assessor Markley replied the law stated that they can go back up to two years. Or up to November 1st of the preceding year.

Commissioner Larson moved to approve the Consent Agenda item No. 5 as presented. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

G. OLD BUSINESS:

H. NEW BUSINESS:

1. *Discuss potential Metropolitan Planning Organization (MPO) study opportunities in 2020.* Planning and Engineering Director Froseth presented study opportunities requested by the Metropolitan Planning Organization (MPO) for 2020. He stated that the MPO has notified all of its member jurisdictions that there are some Consolidated Planning Grant (CPG) funds from past year's distributions that are available to the City of Mandan if used by 2020. The MPO group has discussed some ideas for these funds and one of them includes a possibility of a corridor study for Sunset Drive north where the roadway currently ends. That study has surfaced near the top of supported ideas by the MPO stakeholders. At this time, there is no funding commitment tied to that prioritization exercise. With this agenda item, that corridor study is presented as an option to move forward. A commitment will have to be in place by September 2019 for it to take place in 2020.

Director Froseth commented that with any of these corridor study ideas, some of the main objectives of the study would be to; (1) Determine the best alignment and corresponding right of way necessary to reserve for that future corridor; (2) Project future traffic volumes to determine general configuration of the corridor such as number of lanes and intersection treatments; and (3) Estimate costs in order to best program funding for a future project. The study would come with a consultant lead public outreach effort and public involvement meetings. As with MPO studies, it would not be a design effort and those details would not be part of the scope.

Director Froseth presented three suggested options as being most worthy of a corridor study:

(1) Sunset Drive extension corridor study: This has been discussed by the MPO as a potential study since staff does see the north/central part of Mandan as a potential large-scale growth area.

(2) Boundary Road south of I-94 and west of Sunset Avenue and/or Lohstreter Road extension corridor study: This is also an area that staff can see as a potential large-scale development. Boundary and or Lohstreter are likely a couple of roads that would need to be extended to serve a large scale development into this area. Neither road is currently considered to be on the functional classification system.

(3) McKenzie Drive west extension and Heart River crossing corridor study: Staff occasionally is asked when such a crossing might occur. It would likely help spur some new development but there is not as much land to be developed as the previous two ideas. It would give residents another route from their homes and to the east relieving some volumes coming from the east.

In addition to these three options, the City could elect no study and the MPO could move on to another jurisdiction's study ideas or forfeit the CPG funds available. Director Froseth stated that he is not looking for a recommendation at this time. The intent is to present options, receive feedback, and come back with a recommendation at some future time before 2020 budgeting.

Based on past studies, the MPO has estimated a corridor study to be between \$160K-\$180K. The MPO would be responsible for 80% of the study cost while the local jurisdictions share the remaining 20%. Since the only jurisdictional beneficiary for this one would be Mandan, we would get the entire 20% of the local share.

Mayor Helbling recommended moving No. 2 to the top. This is for informational purposes.

2. *Consider the approval of plans and specifications, Engineers Report, and authorize the call for bids for the 2019 Municipal Sidewalk Improvement Project 2019-03.* Planning & Engineering Director Froseth presented a request for the approval of plans and specifications, Engineers Report, and authorize the call for bids for the 2019 Municipal Sidewalk Improvement Project 2019-03. This is the annual sidewalk construction project for the removal and replacing of existing sidewalks or aprons in need of repair. Residents may elect to have sidewalk and/or apron work done to their existing sidewalk and/or apron that is adjacent to their property under this project and to have that work assessed to their property. Sidewalks and/or aprons for new construction are not eligible to participate. The work includes any concrete item within the public right-of-way that needs to be done. Public Works is looking at utilizing this contract to repair some 8” curb and gutter, and some sidewalk gaps that need to be connected. The project cost is estimated at \$49,027.50 for 2019. There were 72 letters sent to contractors that have done work in the city to invite them to a meeting to discuss this project. That meeting was held on February 7, 2019. Two contractors attended the meeting. Technical feedback was received that will be incorporated into standards going forward.

Director Froseth said that pending approval of this project the next step would be to advertise the project on March 1 & 8, 2019 and open bids March 26, 2019 and bring back recommendations to the City Commission for bid awards on April 2, 2019. Director Froseth recommended approval of this project.

Commissioner Larson moved to approve the resolution approving plans and specifications, approve the resolution approving engineer’s report and approve the resolution directing advertisement for bids for the 2019 Municipal Sidewalk Improvement Project 2019-03. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

3. *2019 Legislative Update #3*

Administrator Neubauer presented a handout of the 2019 Legislative Bills pertinent to the City of Mandan. All defeated bills will drop off this list.

I. RESOLUTIONS AND ORDINANCES

1. *First consideration of Ordinance No. 1307 to amend and re-enact the Mandan Code of Ordinances relating to Animals.* Police Chief Ziegler presented the First Consideration of Ordinance 1307 to Amend and Re-enact the Mandan Code of Ordinances Relating to Animals. Several discussions were held with City Commissioners and city officials regarding updating the current ordinances relating to dogs and cats in the Mandan Municipal Code. In November 2018, a first reading on a proposed new ordinance was held. After that reading, additional input was received regarding the proposed ordinance.

City Attorney Oster explained that it was decided to re-examine the proposed changes. Instead of making numerous changes to the Ordinance No. 1303 proposed in November, a new ordinance has been drafted (Ordinance No. 1307) and the previous Ordinance No. 1303 will be rescinded.

Commissioner Rohr moved to rescind the First Consideration of Ordinance 1303. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

Chief Ziegler explained that Ordinance No. 1307 - Deputy Flaten worked with Commissioner Rohr and others to come up with the new ordinance that contained a number of additional definitions. Several nuisances' related sections were repealed and were combined into an expanded restricted activities section. Changes were made to the sections involving running at large and leashes. In addition, a number of sections have been changed to allow for the issuance of a citation for violations instead of having to do a long form complaint for charges.

Commissioner Larson commented that this Ordinance had a lot of public interest. She requested a brief highlight of what this Ordinance 1307 is comprised of.

Mayor Helbling suggested that due to lack of time for discussion on this item tonight, that it be tabled until the next meeting.

Commissioner Braun moved to table the discussion on the Introduction and First Consideration of Ordinance 1307 to Amend and Re-enact the Mandan Code of Ordinances Relating to Animals. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

J. OTHER BUSINESS

K. ADJOURNMENT

There being no further actions to come before the Board of City Commissioners, Commissioner Rohr moved to adjourn the meeting at 7:03 p.m. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

James Neubauer
City Administrator

Tim Helbling
President, Board of City Commissioners



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: Feb. 19, 2019
SUBMITTING DEPARTMENT: Business Development & Communications
DEPARTMENT DIRECTOR: Ellen Huber
PRESENTER: Ellen Huber, Business Development & Communications Department
SUBJECT: Request for Flex PACE letter of support

STATEMENT/PURPOSE: Consider providing a letter of support to the N.D. Opportunity Fund (NDOF) loan committee for a loan to finance an expansion project by Redline Plumbing.

BACKGROUND/ALTERNATIVES: Mandan is part of a consortium of 38 North Dakota municipalities that received funding from the U.S. Treasury Department for a loan participation program marketed as the N.D. Opportunity Fund (NDOF). The NDOF loan committee will consider applications for repayable loans for the required community share of an interest buydown. The interest buydowns are made available through the Bank of North Dakota PACE and Flex PACE programs. The loan committee needs to receive documentation of community support for use of an interest buydown to assist the particular business or project. A letter from a city commission confirms that a business project provides community benefit and has the support of the governing entity.

Haro Property Management, LLP, a real estate holding company owned by Travis Berger and Jacob Hollingsworth, also the owners of Redline Plumbing, has a purchase agreement in place for a shop/office building at 2716 34th St NW in the Mandan Industrial Park. They are seeking to reduce the interest rate on a \$209,600 loan to be applied toward the purchase of the property. The required community share for the buydown is \$9,179.57. They plan to seek this amount as a repayable loan from the NDOF.

ATTACHMENTS: 1) Redline Plumbing Flex PACE request 2) Proposed letter of support

FISCAL IMPACT: n/a

STAFF IMPACT: Minimal

LEGAL REVIEW: All information has been submitted to Attorney Brown for review.

RECOMMENDATION: I recommend the City Commission provide a letter of support regarding an interest buydown for Haro Property Management, LLP to accommodate purchase of a property by Redline Plumbing.

SUGGESTED MOTION: I move to approve providing a letter of support for Haro Property Management, LLP to accommodate purchase of a property by Redline Plumbing.



Dear Mandan City Commission,

This letter is to request support for the provision of the required community match for an interest buy-down from the N.D. Opportunity Fund.

Redline Plumbing was established April of 2013. They specialize in new construction, remodels and service plumbing. Redline Plumbing is equally owned by long-time friends Travis Berger and Jacob Hollingsworth. Both Travis and Jake are Mandan graduates and currently still live in Mandan.

Travis graduated from MHS in 2000, from there he started his apprenticeship plumbing at HA Thompson. After a year there, he pursued a degree in business management. Travis then got back into plumbing for Northern Plains Plumbing. He finished his apprenticeship and became a Journeyman Plumber. After seven years at Northern Plains, Travis wrote his plumbing test and became a Master Plumber. One week later Travis and Jacob started Redline Plumbing.

Jake graduated from MHS in 2002, from there he also started his apprenticeship plumbing for HA Thompson. Jake was employed at HA Thompson for about a year and half. He then joined the Army full time. Jake was stationed out of Washington and was deployed multiple times. After six years, Jake left the Army and moved back home and began plumbing again. Jake finished his apprenticeship at Northern Plains and became a Journeyman Plumber. One week later, Redline Plumbing was established.

They both left great paying jobs and spent their savings, in hopes to pursue their dream of being business owners. They got a loan from Starion and bought an enclosed trailer. Every night after work, this trailer would be parked in front of Travis' home. Soon, Redline began to grow and a van was purchased. Over time, Redline grew from just Travis and Jake, to hiring a temporary summer employee, to hiring two permanent full time employees. After getting multiple parking tickets for not having a place to put their equipment, Travis and Jake created Haro Property Management, a real estate holding company which purchased a four unit residential rental property with a two stall garage. Redline Plumbing began to work out of the garage of the four unit building. Redline Plumbing has continued to grow and is running out of space in the garage.

After hearing about the Flex Pace program offer for businesses like Redline Plumbing, the owners started to seek out a location in Mandan. After looking at many different properties,

Haro Property Management now has a purchase agreement in place for the shop/office building at 2716 34th St. NW Mandan. The property has a 1,040 sf office and 1,200 sf shop on .84 acres, with plenty of room to expand. The loan will be \$209,600, which is 80% of the \$262,000 purchase price of the property. They plan to eventually build an additional shop on the site and renovate the original building. With this additional space to grow, they will have the opportunity to hire more employees and expand their vehicle fleet as well.

Please consider the request to support the interest buy-down program for Haro Property Management LLP.



2/18/2019

Mandan City Commission,

This letter is to serve as a conditional letter of approval for a bank loan to Haro Property Management LLP, the real estate holding company for Travis Berger and Jacob Hollingsworth, owners of Redline Plumbing Heating and Air LLC. The terms are as followed:

- **Loan up to \$209,600. Loan is limited to 80% of purchase price or appraised value.**
- The interest rate will be fixed for the first 5 years at 5.39%. After 5 years, it will relock at whatever the Federal Home Loan Bank (FHLB) 5 year rate + 2.35% is at that time, for the last 5 years of the maturity.
- Monthly P&I.
- 10 year maturity
- 20 year amortization
- Security will be a 1st REM on subject property

This approval is subject to the following conditions below:

- Acceptable appraisal on property.
- Acceptable title work
- Acceptable insurance

Sincerely,

A handwritten signature in black ink, appearing to read "Landon Feil", is written over a light blue circular stamp.

Landon Feil
Business Banking/VP
701-667-1611
landonf@starionbank.com

Exhibit A: Haro Property Management LLP

LOAN TYPE: Flex PACE
 LOAN NUMBER:
 LEAD BANK:

*NOTE: The borrower and originating lender should be aware that the fund will provide a set stream of subsidy payments (interest buydown) based upon the payment schedule below. The amount of the borrower's payment, the amortization and all other terms of the loan shall be governed by the promissory note.
 The balances shown here, other than the specific buydown amounts, are intended for illustrative purposes only.*

Buydown Account Details

INTEREST BUYDOWN AMOUNT:	\$26,828.15
BND BUYDOWN AMOUNT:	\$17,438.29
COMMUNITY BUYDOWN AMOUNT:	\$9,389.86
PRESENT VALUE BND:	\$17,047.76
PRESENT VALUE COMMUNITY:	\$9,179.57
CREATED DATE:	2/13/2019

Loan without buydown

PRINCIPAL:	\$209,600.00
YIELD RATE:	5.39
AMORTIZATION (MONTHS):	240
PAYMENT:	\$1,438.10

Loan with buydown

PRINCIPAL:	\$209,600.00
BORROWING RATE:	1.00
AMORTIZATION (MONTHS):	240

Period	Payment	Principal	Interest	Balance
1	\$1,438.10	\$496.65	\$941.45	\$209,103.35
2	\$1,438.10	\$467.57	\$970.53	\$208,635.78
3	\$1,438.10	\$500.98	\$937.12	\$208,134.80
4	\$1,438.10	\$472.07	\$966.03	\$207,662.73
5	\$1,438.10	\$474.26	\$963.84	\$207,188.47
6	\$1,438.10	\$507.48	\$930.62	\$206,680.99
7	\$1,438.10	\$478.81	\$959.29	\$206,202.18
8	\$1,438.10	\$511.91	\$926.19	\$205,690.27
9	\$1,438.10	\$483.41	\$954.69	\$205,206.86
10	\$1,438.10	\$485.66	\$952.44	\$204,721.20
11	\$1,438.10	\$549.21	\$888.89	\$204,171.99
12	\$1,438.10	\$490.46	\$947.64	\$203,681.53
13	\$1,438.10	\$523.23	\$914.87	\$203,158.30
14	\$1,438.10	\$495.16	\$942.94	\$202,663.14
15	\$1,438.10	\$527.80	\$910.30	\$202,135.34
16	\$1,438.10	\$499.91	\$938.19	\$201,635.43
17	\$1,438.10	\$502.23	\$935.87	\$201,133.20
18	\$1,438.10	\$534.68	\$903.42	\$200,598.52
19	\$1,438.10	\$507.04	\$931.06	\$200,091.48
20	\$1,438.10	\$539.36	\$898.74	\$199,552.12
21	\$1,438.10	\$511.90	\$926.20	\$199,040.22
22	\$1,438.10	\$514.28	\$923.82	\$198,525.94
23	\$1,438.10	\$605.84	\$832.26	\$197,920.10
24	\$1,438.10	\$519.48	\$918.62	\$197,400.62
25	\$1,438.10	\$551.44	\$886.66	\$196,849.18
26	\$1,438.10	\$524.45	\$913.65	\$196,324.73
27	\$1,438.10	\$556.27	\$881.83	\$195,768.46
28	\$1,438.10	\$529.46	\$908.64	\$195,239.00
29	\$1,438.10	\$531.92	\$906.18	\$194,707.08
30	\$1,438.10	\$563.54	\$874.56	\$194,143.54
31	\$1,438.10	\$537.00	\$901.10	\$193,606.54
32	\$1,438.10	\$568.48	\$869.62	\$193,038.06
33	\$1,438.10	\$542.14	\$895.96	\$192,495.92
34	\$1,438.10	\$544.65	\$893.45	\$191,951.27
35	\$1,438.10	\$633.40	\$804.70	\$191,317.87
36	\$1,438.10	\$550.12	\$887.98	\$190,767.75
\$51,771.60	\$18,832.25	\$32,939.35		

Period	Payment	Principal	Interest	Balance
1	\$671.32	\$496.65	\$174.67	\$209,103.35
2	\$647.63	\$467.57	\$180.06	\$208,635.78
3	\$674.84	\$500.98	\$173.86	\$208,134.80
4	\$651.30	\$472.07	\$179.23	\$207,662.73
5	\$653.08	\$474.26	\$178.82	\$207,188.47
6	\$680.14	\$507.48	\$172.66	\$206,680.99
7	\$656.79	\$478.81	\$177.98	\$206,202.18
8	\$683.74	\$511.91	\$171.83	\$205,690.27
9	\$660.53	\$483.41	\$177.12	\$205,206.86
10	\$662.37	\$485.66	\$176.71	\$204,721.20
11	\$714.12	\$549.21	\$164.91	\$204,171.99
12	\$666.27	\$490.46	\$175.81	\$203,681.53
13	\$692.96	\$523.23	\$169.73	\$203,158.30
14	\$670.10	\$495.16	\$174.94	\$202,663.14
15	\$696.69	\$527.80	\$168.89	\$202,135.34
16	\$673.97	\$499.91	\$174.06	\$201,635.43
17	\$675.86	\$502.23	\$173.63	\$201,133.20
18	\$702.29	\$534.68	\$167.61	\$200,598.52
19	\$679.78	\$507.04	\$172.74	\$200,091.48
20	\$706.10	\$539.36	\$166.74	\$199,552.12
21	\$683.74	\$511.90	\$171.84	\$199,040.22
22	\$685.68	\$514.28	\$171.40	\$198,525.94
23	\$760.25	\$605.84	\$154.41	\$197,920.10
24	\$689.91	\$519.48	\$170.43	\$197,400.62
25	\$715.94	\$551.44	\$164.50	\$196,849.18
26	\$693.96	\$524.45	\$169.51	\$196,324.73
27	\$719.87	\$556.27	\$163.60	\$195,768.46
28	\$698.04	\$529.46	\$168.58	\$195,239.00
29	\$700.04	\$531.92	\$168.12	\$194,707.08
30	\$725.80	\$563.54	\$162.26	\$194,143.54
31	\$704.18	\$537.00	\$167.18	\$193,606.54
32	\$729.82	\$568.48	\$161.34	\$193,038.06
33	\$708.37	\$542.14	\$166.23	\$192,495.92
34	\$710.41	\$544.65	\$165.76	\$191,951.27
35	\$782.69	\$633.40	\$149.29	\$191,317.87
36	\$714.87	\$550.12	\$164.75	\$190,767.75
\$24,943.45	\$18,832.25	\$6,111.20		

Period	Interest Buydown	BND (65.00%)	Community (35.00%)
1	\$766.78	\$498.41	\$268.37
2	\$790.47	\$513.81	\$276.66
3	\$763.26	\$496.12	\$267.14
4	\$786.80	\$511.42	\$275.38
5	\$785.02	\$510.26	\$274.76
6	\$757.96	\$492.67	\$265.29
7	\$781.31	\$507.85	\$273.46
8	\$754.36	\$490.33	\$264.03
9	\$777.57	\$505.42	\$272.15
10	\$775.73	\$504.22	\$271.51
11	\$723.98	\$470.59	\$253.39
12	\$771.83	\$501.69	\$270.14
13	\$745.14	\$484.34	\$260.80
14	\$768.00	\$499.20	\$268.80
15	\$741.41	\$481.92	\$259.49
16	\$764.13	\$496.68	\$267.45
17	\$762.24	\$495.46	\$266.78
18	\$735.81	\$478.28	\$257.53
19	\$758.32	\$492.91	\$265.41
20	\$732.00	\$475.80	\$256.20
21	\$754.36	\$490.33	\$264.03
22	\$752.42	\$489.07	\$263.35
23	\$677.85	\$440.60	\$237.25
24	\$748.19	\$486.32	\$261.87
25	\$722.16	\$469.40	\$252.76
26	\$744.14	\$483.69	\$260.45
27	\$718.23	\$466.85	\$251.38
28	\$740.06	\$481.04	\$259.02
29	\$738.06	\$479.74	\$258.32
30	\$712.30	\$463.00	\$249.30
31	\$733.92	\$477.05	\$256.87
32	\$708.28	\$460.38	\$247.90
33	\$729.73	\$474.32	\$255.41
34	\$727.69	\$473.00	\$254.69
35	\$655.41	\$426.02	\$229.39
36	\$723.23	\$470.10	\$253.13
\$26,828.15	\$17,438.29	\$9,389.86	



March 5, 2019

Dear NDOF Loan Committee,

Please accept this letter as evidence of support by the Mandan City Commission for a NDOF loan to Haro Property Management, LLP, for the community share of a proposed interest buydown through the Bank of North Dakota Flex PACE program.

As one of 38 participating municipalities involved in creating the NDOF, the City of Mandan has appreciated the role of the revolving loan fund in filling gaps and leveraging private financing to help new and expanding businesses attain needed loans. The City of Mandan's Growth Fund currently has a relatively balance of uncommitted funds, less than \$300,000. We are striving to reserve these scarce funds for economic and community development programs and anticipated projects that justify a forgivable or no-interest loan. Thus we ask that you favorably consider the application by Haro Property Management, LLP.

The real estate holding company is owned by Travis Berger and Jacob Hollingsworth, also the owners of Redline Plumbing. They have a purchase agreement in place for a shop/office building at 2716 34th St NW in the Mandan Industrial Park. They are seeking to reduce the interest rate on a \$209,600 loan to be applied toward the purchase of the property. The required community share for the buydown is \$9,179.57.

The Mandan City Commission supports the use of the NDOF to reduce borrowing costs on a loan because it will facilitate the expansion of Redline Plumbing, an existing business in Mandan. With additional space to grow, Redline Plumbing will be able to hire more employees and expand its service fleet.

We appreciate your consideration of this request.

Sincerely,

City of Mandan

Timothy C. Helbling
Mayor



"WHERE THE WEST BEGINS"

CITY OF MANDAN

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

701-667-3215 • FAX: 701-667-3223 • www.cityofmandan.com

CITY DEPARTMENTS

ADMINISTRATION	667-3215
ASSESSING	667-3232
BUILDING INSPECTION	667-3230
BUSINESS DEVELOPMENT	667-3485
CEMETERY	667-6044
ENGINEER/PLANNING & ZONING	667-3225
FINANCE	667-3213
FIRE	667-3288
HUMAN RESOURCES	667-3217
LANDFILL	667-0184
MUNICIPAL COURT	667-3270
POLICE	667-3455
PUBLIC WORKS	667-3240
WASTEWATER TREATMENT	667-3278
SPECIAL ASSESSMENTS	667-3271
UTILITY BILLING	667-3219
WATER TREATMENT	667-3275

PROCLAMATION

General Aviation Appreciation Month 2019

WHEREAS, the City of Mandan in the state of North Dakota has a significant interest in the continued vitality of general aviation, aircraft manufacturing, aviation educational institutions, aviation organizations and community airports; and

WHEREAS, general aviation and the Mandan Municipal Airport have an immense economic impact on the City of Mandan; and

WHEREAS, North Dakota is home to 89 public-use airports, which serve approximately 3,600 pilots and about 2,000 registered aircraft; and

WHEREAS, North Dakota is home to 53 fixed-base operators, 12 repair stations, 17 heliports, one FAA-approved pilot schools, 856 student pilots and 496 flight instructors; and

WHEREAS, general aviation airports in North Dakota support more than \$121 million in total economic output; and

WHEREAS, general aviation not only supports North Dakota's economy, it improves overall quality of life by supporting emergency medical and healthcare services, law enforcement, firefighting and disaster relief, and by transporting business travelers to their destinations quickly and safely; and

WHEREAS, the nation's aviation infrastructure represents an important public benefit, and Congressional oversight should be in place of this system to ensure that it remains a public system and serves communities of all sizes;

NOW, THEREFORE, I, Tim Helbling, President of the Board of City Commissioners of the City of Mandan, do hereby proclaim general aviation a vital strategic resource to the City of Mandan and Declare March, 2019 as

GENERAL AVIATION APPRECIATION MONTH

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Mandan to be affixed on March 5th, 2019

Timothy Helbling,
President,
Board of City Commissioners

Attest:

James Neubauer City Administrator



"WHERE THE WEST BEGINS"

CITY OF MANDAN

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

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CITY DEPARTMENTS

ADMINISTRATION	667-3215
ASSESSING	667-3232
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BUSINESS DEVELOPMENT	667-3485
CEMETERY	667-6044
ENGINEER/PLANNING & ZONING	667-3225
FINANCE	667-3213
FIRE	667-3288
HUMAN RESOURCES	667-3217
LANDFILL	667-0184
MUNICIPAL COURT	667-3270
POLICE	667-3455
PUBLIC WORKS	667-3240
WASTEWATER TREATMENT	667-3278
SPECIAL ASSESSMENTS	667-3271
UTILITY BILLING	667-3219
WATER TREATMENT	667-3275

Proclamation Earth Day 2019

WHEREAS, humankind is currently facing tremendous global challenges affecting every community, including large-scale migration, extreme inequality and poverty, degradation of ecosystems, mass extinction of species, and global climate change; and

WHEREAS, all people of this Earth, no matter their race, gender, income, sexual orientation, or national origin, have a right to a healthy environment; and

WHEREAS, the youth of the world are our most valuable resource and represent a source of endless creativity and potential; and

WHEREAS, it is necessary for the citizens of our global community to develop green jobs and to build an innovative and equitable green economy to combat the aforementioned global challenges; and

WHEREAS, expanding environmental education and climate literacy is vital to enhance awareness about the environment, inform decision-making, and protect future generations, and

WHEREAS, it is understood that sustainability will only be achieved by meeting the needs of the present without compromising the needs of future generations;

WHEREAS, it is more important than ever to act locally and to cooperate internationally and defend the environmental progress that has been heretofore gained; and

WHEREAS, it is essential to expand and diversify the global environmental movement to achieve maximum progress; and

WHEREAS, Earth Day is an annual reminder of the constant need for environmental activism, stewardship commitments, and sustainability efforts.

NOW, THEREFORE, I, Timothy Helbling, President of the Board of City Commissioners of the City of Mandan, have the distinct honor of proclaiming April 22, 2019 as EARTH DAY throughout Mandan and encourage all of its citizens, businesses, and institutions to use EARTH DAY to celebrate the Earth and promote environmental and climate literacy.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Mandan to be affixed on March 5, 2019.

Timothy Helbling,
President,
Board of City Commissioners

Attest:

James Neubauer City Administrator



"WHERE THE WEST BEGINS"

CITY OF MANDAN

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

701-667-3215 • FAX: 701-667-3223 • www.cityofmandan.com

CITY DEPARTMENTS

ADMINISTRATION	667-3215
ASSESSING	667-3232
BUILDING INSPECTION	667-3230
BUSINESS DEVELOPMENT	667-3485
CEMETERY	667-6044
ENGINEER/PLANNING & ZONING	667-3225
FINANCE	667-3213
FIRE	667-3288
HUMAN RESOURCES	667-3217
LANDFILL	667-0184
MUNICIPAL COURT	667-3270
POLICE	667-3455
PUBLIC WORKS	667-3240
WASTEWATER TREATMENT	667-3278
SPECIAL ASSESSMENTS	667-3271
UTILITY BILLING	667-3219
WATER TREATMENT	667-3275

Proclamation Spring Clean-Up Week

- WHEREAS, Each spring a special week has been set aside to encourage city wide clean-up effort; and
- WHEREAS, Experience has shown that the efforts put forth during this week help to prevent accidents and fires and does much to promote a clean, attractive community; and
- WHEREAS, The citizens of Mandan have participated in this program to the common benefit of the individual property owners and the community as a whole.

NOW THEREFORE, I, TIMOTHY A. HELBLING, President of the Board of City Commissioners of the City of Mandan, do hereby proclaim the week of April 27th - May 4th, 2019 to be

“SPRING CLEAN-UP WEEK”

In the City of Mandan and do urge all citizens to participate in the efforts to keep Mandan the clean and attractive community that it is.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Mandan to be affixed on March 5th, 2019.

Timothy A. Helbling,
President,
Board of City Commissioners

Attest:

James Neubauer City Administrator



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: Feb. 19, 2019
SUBMITTING DEPARTMENT: Business Development & Communications
DEPARTMENT DIRECTOR: Ellen Huber
PRESENTER: Ellen Huber, Business Development & Communications Department
SUBJECT: Request for Flex PACE letter of support by E-C ND Investments, LLC

STATEMENT/PURPOSE: Consider providing a letter of support to the N.D. Opportunity Fund (NDOF) loan committee for a loan to finance an expansion project by E-C ND Investments, LLC.

BACKGROUND/ALTERNATIVES: Mandan is part of a consortium of 38 North Dakota municipalities that received funding from the U.S. Treasury Department for a loan participation program marketed as the N.D. Opportunity Fund (NDOF). The NDOF loan committee will consider applications for repayable loans for the required community share of an interest buydown. The interest buydowns are made available through the Bank of North Dakota (BND) PACE and Flex PACE programs. The loan committee needs to receive documentation of community support for use of an interest buydown to assist the particular business or project. A letter from a city commission confirms that a business project provides community benefit and has the support of the governing entity.

E-C ND Investments owns property in Mandan and leases it to Malloy Electric. Malloy is seeking to expand and has selected Mandan among its regional service center locations which include Sioux Falls and Dakota Dunes, SD; Omaha, NE, and Fargo. Owner Chris Houwman indicates the recommendation is in part because of Mandan's friendly permitting process and the availability of the interest buydown program.

Malloy is seeking to reduce the interest rate on a \$2 million to \$2.5 million loan to add an approximate 15,000 sf warehouse/distribution center for its regional customer base. Based on a sample BND buydown schedule, the required 35 percent community match is estimated at \$68,904. They plan to seek this amount as a repayable loan from the NDOF.

ATTACHMENTS: 1) E-C ND Investments Flex PACE request 2) Proposed letter of support. *For more information visit <http://www.malloyelectric.com>.*

FISCAL IMPACT: n/a

STAFF IMPACT: Minimal

LEGAL REVIEW: All information has been submitted to Attorney Brown for review.

RECOMMENDATION: I recommend the City Commission provide a letter of support regarding an interest buydown for E-C ND Investments, LLC to accommodate an expansion by Malloy Electric.

SUGGESTED MOTION: I move to approve providing a letter of support regarding an interest buydown for E-C ND Investments, LLC to accommodate an expansion by Malloy Electric.

February 26, 2019

Dear Mandan City Commissioners:

Please accept this as a letter of request for your support of an interest buydown for a business expansion project by Malloy Electric.

Malloy Electric was founded in 1945, expanding to incorporate the retail sales and service of electric motors, electrical equipment, and power transmission components. Malloy has continued to expand over the years and now has incorporated large facilities that house machine shops, electronic shops and motor repair shops with locations in Sioux Falls SD, Dakota Dunes, SD, Fargo ND, Mandan ND, and 2 locations in Omaha NE.

Malloy is looking to add additional warehousing in one of our regional service centers. Our team has recommended our facility in Mandan for this expansion. The address of this facility is: 1401 Action Drive SE Mandan, ND 58554.

This project is adding a distribution center for our regional customer base. Malloy would also look at adding additional equipment to grow our existing service business in North Dakota.

The investment for building the equipment is estimated to be 2.5 million dollars.

Malloy started operations in Mandan in 2016 and has grown to 18 employees by the end of 2018. We anticipate adding an additional 10-12 people in the next 18 months.

Our primary lending institution is US Bank. We would likely use them for this expansion as well, 4.5% -5% interest – with a 10-year note. However, we'd like the opportunity to bid this among a couple lenders, thus the reason for letter of commitment by a lead lender, yet. A copy of the proposed buydown schedule is attached.

The business entity for the loan will be E-C ND Investments, LLC. E-C ND owns the property in Mandan and rents it out to Malloy Electric, both companies have the same ownership.

E-C ND LLC will be funding the expansion for Malloy to expand the business.

I appreciate your support of our initial project in 2016 and hope you'll support this expansion as well.

Sincerely,



Chris Houwman, Owner
Malloy Electric

Exhibit A: Malloy Electric

LOAN TYPE: Flex PACE
 LOAN NUMBER:
 LEAD BANK:

Buydown Account Details

INTEREST BUYDOWN AMOUNT:	\$201,232.45
BND BUYDOWN AMOUNT:	\$130,801.10
COMMUNITY BUYDOWN AMOUNT:	\$70,431.35
PRESENT VALUE BND:	\$127,965.86
PRESENT VALUE COMMUNITY:	\$68,904.69
CREATED DATE:	2/21/2019

Loan without buydown

PRINCIPAL:	\$2,000,000.00
YIELD RATE:	4.75
AMORTIZATION (MONTHS):	120
PAYMENT:	\$21,037.51

NOTE: The borrower and originating lender should be aware that the fund will provide a set stream of subsidy payments (interest buydown) based upon the payment schedule below. The amount of the borrower's payment, the amortization and all other terms of the loan shall be governed by the promissory note.
The balances shown here, other than the specific buydown amounts, are intended for illustrative purposes only.

Loan with buydown

PRINCIPAL:	\$2,000,000.00
BORROWING RATE:	1.00
AMORTIZATION (MONTHS):	120

Period	Payment	Principal	Interest	Balance
1	\$21,037.51	\$12,856.95	\$8,180.56	\$1,987,143.05
2	\$21,037.51	\$13,171.74	\$7,865.77	\$1,973,971.31
3	\$21,037.51	\$12,963.42	\$8,074.09	\$1,961,007.89
4	\$21,037.51	\$13,275.19	\$7,762.32	\$1,947,732.70
5	\$21,037.51	\$13,070.74	\$7,966.77	\$1,934,661.96
6	\$21,037.51	\$13,124.21	\$7,913.30	\$1,921,537.75
7	\$21,037.51	\$13,431.42	\$7,606.09	\$1,908,106.33
8	\$21,037.51	\$13,232.83	\$7,804.68	\$1,894,873.50
9	\$21,037.51	\$13,536.97	\$7,500.54	\$1,881,336.53
10	\$21,037.51	\$13,342.32	\$7,695.19	\$1,867,994.21
11	\$21,037.51	\$13,396.89	\$7,640.62	\$1,854,597.32
12	\$21,037.51	\$13,941.10	\$7,096.41	\$1,840,656.22
13	\$21,037.51	\$13,508.71	\$7,528.80	\$1,827,147.51
14	\$21,037.51	\$13,805.05	\$7,232.46	\$1,813,342.46
15	\$21,037.51	\$13,620.44	\$7,417.07	\$1,799,722.02
16	\$21,037.51	\$13,913.61	\$7,123.90	\$1,785,808.41
17	\$21,037.51	\$13,733.06	\$7,304.45	\$1,772,075.35
18	\$21,037.51	\$13,789.23	\$7,248.28	\$1,758,286.12
19	\$21,037.51	\$14,077.63	\$6,959.88	\$1,744,208.49
20	\$21,037.51	\$13,903.21	\$7,134.30	\$1,730,305.28
21	\$21,037.51	\$14,188.38	\$6,849.13	\$1,716,116.90
22	\$21,037.51	\$14,018.12	\$7,019.39	\$1,702,098.78
23	\$21,037.51	\$14,075.45	\$6,962.06	\$1,688,023.33
24	\$21,037.51	\$14,801.20	\$6,236.31	\$1,673,222.13
25	\$21,037.51	\$14,193.57	\$6,843.94	\$1,659,028.56
26	\$21,037.51	\$14,470.52	\$6,566.99	\$1,644,558.04
27	\$21,037.51	\$14,310.81	\$6,726.70	\$1,630,247.23
28	\$21,037.51	\$14,584.45	\$6,453.06	\$1,615,662.78
29	\$21,037.51	\$14,429.00	\$6,608.51	\$1,601,233.78
30	\$21,037.51	\$14,488.02	\$6,549.49	\$1,586,745.76
31	\$21,037.51	\$14,756.64	\$6,280.87	\$1,571,989.12
32	\$21,037.51	\$14,607.64	\$6,429.87	\$1,557,381.48
33	\$21,037.51	\$14,872.87	\$6,164.64	\$1,542,508.61
34	\$21,037.51	\$14,728.22	\$6,309.29	\$1,527,780.39
35	\$21,037.51	\$14,788.46	\$6,249.05	\$1,512,991.93
36	\$21,037.51	\$15,447.85	\$5,589.66	\$1,497,544.08
\$757,350.36	\$502,455.92	\$254,894.44		

Period	Payment	Principal	Interest	Balance
1	\$14,579.17	\$12,856.95	\$1,722.22	\$1,987,143.05
2	\$14,827.69	\$13,171.74	\$1,655.95	\$1,973,971.31
3	\$14,663.23	\$12,963.42	\$1,699.81	\$1,961,007.89
4	\$14,909.36	\$13,275.19	\$1,634.17	\$1,947,732.70
5	\$14,747.95	\$13,070.74	\$1,677.21	\$1,934,661.96
6	\$14,790.17	\$13,124.21	\$1,665.96	\$1,921,537.75
7	\$15,032.70	\$13,431.42	\$1,601.28	\$1,908,106.33
8	\$14,875.92	\$13,232.83	\$1,643.09	\$1,894,873.50
9	\$15,116.03	\$13,536.97	\$1,579.06	\$1,881,336.53
10	\$14,962.36	\$13,342.32	\$1,620.04	\$1,867,994.21
11	\$15,005.44	\$13,396.89	\$1,608.55	\$1,854,597.32
12	\$15,435.08	\$13,941.10	\$1,493.98	\$1,840,656.22
13	\$15,093.72	\$13,508.71	\$1,585.01	\$1,827,147.51
14	\$15,327.67	\$13,805.05	\$1,522.62	\$1,813,342.46
15	\$15,181.93	\$13,620.44	\$1,561.49	\$1,799,722.02
16	\$15,413.38	\$13,913.61	\$1,499.77	\$1,785,808.41
17	\$15,270.84	\$13,733.06	\$1,537.78	\$1,772,075.35
18	\$15,315.18	\$13,789.23	\$1,525.95	\$1,758,286.12
19	\$15,542.87	\$14,077.63	\$1,465.24	\$1,744,208.49
20	\$15,405.17	\$13,903.21	\$1,501.96	\$1,730,305.28
21	\$15,630.30	\$14,188.38	\$1,441.92	\$1,716,116.90
22	\$15,495.89	\$14,018.12	\$1,477.77	\$1,702,098.78
23	\$15,541.15	\$14,075.45	\$1,465.70	\$1,688,023.33
24	\$16,114.11	\$14,801.20	\$1,312.91	\$1,673,222.13
25	\$15,634.40	\$14,193.57	\$1,440.83	\$1,659,028.56
26	\$15,853.04	\$14,470.52	\$1,382.52	\$1,644,558.04
27	\$15,726.96	\$14,310.81	\$1,416.15	\$1,630,247.23
28	\$15,942.99	\$14,584.45	\$1,358.54	\$1,615,662.78
29	\$15,820.27	\$14,429.00	\$1,391.27	\$1,601,233.78
30	\$15,866.86	\$14,488.02	\$1,378.84	\$1,586,745.76
31	\$16,078.93	\$14,756.64	\$1,322.29	\$1,571,989.12
32	\$15,961.30	\$14,607.64	\$1,353.66	\$1,557,381.48
33	\$16,170.69	\$14,872.87	\$1,297.82	\$1,542,508.61
34	\$16,056.49	\$14,728.22	\$1,328.27	\$1,527,780.39
35	\$16,104.05	\$14,788.46	\$1,315.59	\$1,512,991.93
36	\$16,624.62	\$15,447.85	\$1,176.77	\$1,497,544.08
\$556,117.91	\$502,455.92	\$53,661.99		

Period	Interest Buydown	BND (65.00%)	Community (35.00%)
1	\$6,458.34	\$4,197.92	\$2,260.42
2	\$6,209.82	\$4,036.38	\$2,173.44
3	\$6,374.28	\$4,143.28	\$2,231.00
4	\$6,128.15	\$3,983.30	\$2,144.85
5	\$6,289.56	\$4,088.21	\$2,201.35
6	\$6,247.34	\$4,060.77	\$2,186.57
7	\$6,004.81	\$3,903.13	\$2,101.68
8	\$6,161.59	\$4,005.03	\$2,156.56
9	\$5,921.48	\$3,848.96	\$2,072.52
10	\$6,075.15	\$3,948.85	\$2,126.30
11	\$6,032.07	\$3,920.85	\$2,111.22
12	\$5,602.43	\$3,641.58	\$1,960.85
13	\$5,943.79	\$3,863.46	\$2,080.33
14	\$5,709.84	\$3,711.40	\$1,998.44
15	\$5,855.58	\$3,806.13	\$2,049.45
16	\$5,624.13	\$3,655.68	\$1,968.45
17	\$5,766.67	\$3,748.34	\$2,018.33
18	\$5,722.33	\$3,719.51	\$2,002.82
19	\$5,494.64	\$3,571.52	\$1,923.12
20	\$5,632.34	\$3,661.02	\$1,971.32
21	\$5,407.21	\$3,514.69	\$1,892.52
22	\$5,541.62	\$3,602.05	\$1,939.57
23	\$5,496.36	\$3,572.63	\$1,923.73
24	\$4,923.40	\$3,200.21	\$1,723.19
25	\$5,403.11	\$3,512.02	\$1,891.09
26	\$5,184.47	\$3,369.91	\$1,814.56
27	\$5,310.55	\$3,451.86	\$1,858.69
28	\$5,094.52	\$3,311.44	\$1,783.08
29	\$5,217.24	\$3,391.21	\$1,826.03
30	\$5,170.65	\$3,360.92	\$1,809.73
31	\$4,958.58	\$3,223.08	\$1,735.50
32	\$5,076.21	\$3,299.54	\$1,776.67
33	\$4,866.82	\$3,163.43	\$1,703.39
34	\$4,981.02	\$3,237.66	\$1,743.36
35	\$4,933.46	\$3,206.75	\$1,726.71
36	\$4,412.89	\$2,868.38	\$1,544.51
\$201,232.45	\$130,801.10	\$70,431.35	



March 5, 2019

Dear NDOF Loan Committee,

Please accept this letter as evidence of support by the Mandan City Commission for a NDOF loan to E-C ND Investments, LLC, for the community share of a proposed interest buydown through the Bank of North Dakota Flex PACE program.

As one of 38 participating municipalities involved in creating the NDOF, the City of Mandan has appreciated the role of the revolving loan fund in filling gaps and leveraging private financing to help new and expanding businesses attain needed loans. The City of Mandan's Growth Fund currently has a relatively balance of uncommitted funds. We are striving to reserve these scarce funds for economic and community development programs and anticipated projects that justify a forgivable or no-interest loan. Thus we ask that you favorably consider the application by E-C ND Investments, LLC.

E-C ND Investments owns property in Mandan and leases it to Malloy Electric. Malloy is seeking to expand and has selected Mandan among its regional service center locations which include Sioux Falls and Dakota Dunes, SD; Omaha, NE, and Fargo. Owner Chris Houwman indicates the recommendation is in part because of Mandan's friendly permitting process and the availability of the interest buydown program.

Malloy is seeking to reduce the interest rate on a \$2 million to \$2.5 million loan to add an approximate 15,000 sf warehouse/distribution center for its regional customer base. The required community share for the buydown is preliminarily estimated at \$68,905, but may be subject to change depending on the final project cost, loan amount and terms.

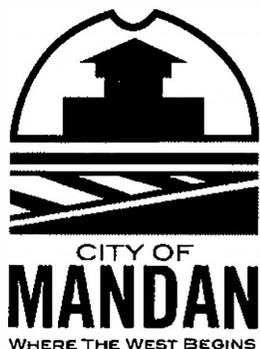
The Mandan City Commission supports the use of the NDOF to reduce borrowing costs on a loan because it will facilitate the expansion of Malloy Electric, adding to Mandan's taxable value and the hiring of 10-12 people in the next 18 months.

We appreciate your consideration of this request.

Sincerely,

City of Mandan

Timothy C. Helbling
Mayor



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: March 1, 2019
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Transfer of Class A Liquor License from Silver Dollar to Gregorio DiDonna

STATEMENT/PURPOSE: To consider transferring the Class A Liquor License from the Silver Dollar Bar Inc. to Gregorio DiDonna.

BACKGROUND/ALTERNATIVES: As we understand the property commonly known as the Silver Dollar Bar has been sold to Mr. Wade Felton, Rock Hill Properties LLC.

ATTACHMENTS: Liquor license application, request from Luas Berger Jr to transfer license to Mr. Gregorio Didonna. This would be the one time transfer pursuant to our code of ordinances. There is a "Premises Lease Agreement" between Rock Hill Properties LLC and Mr. Gregorio DiDonna. Mr. DiDonna has previous experience with DiDonna's Italian Restaurant, Captian Freddy's and 1603 Main Events in Bismarck. No issue arose from the background check for Mr. DiDonna.

FISCAL IMPACT: \$150 has been received as the transfer fee.

STAFF IMPACT: minimal

LEGAL REVIEW: Information has been forwarded to City Attorney Brown for his review.

RECOMMENDATION: I recommend approval contingent upon the establishment meeting all fire, health & safety, building codes and all property taxes are paid.

SUGGESTED MOTION: I move to approve the transfer of the Class A Liquor License from the Silver Dollar Bar to Gregorio Didonna.



Individual or Partnership Liquor License Application

1. Type of License:

Liquor On-Sale Off-Sale Class: A B C D D1 E F WB MP DY BWO

Beer On-Sale Off-Sale Class: A B C D D1 E F WB MP DY BWO

2. Duration of License: Annual: (July 1, _____ to June 30, _____)
Part of Year: From _____ to _____

3. Are you applying for an Individual or Partnership

4. If business is owned by an individual, give name, address, and date of birth of Owner:

Gregorio C. Didona 5311 20th Ave NE Bismarck ND 58501
10-12-70

5. If business is owned by a partnership give the name of the partnership and the names, addresses, and dates of birth of each member of the partnership.

N/A

6. Name of Individual who is to be in charge of the day to day operations and management of the licensed premises and will be responsible for complying with the municipal ordinances and state laws covering the operation of the premises:

Name: Gregorio C. Didona Address: 5311 20th Ave NE
City: Bismarck State: ND Age: 49 DOB: 10-12-70 Citizenship: USA

If naturalized, give date and place of naturalization: _____

List all other places of residence within the last 5 years: 1206 West Cavendish Rd
Bismarck ND 58501

7. Description of Licensed Premises: Address: 100 East Main, Mandan, ND 58554

Legal Description: (Lot & Block): 3189 Lot 15 B1K5 (also submit on an attached page a diagram of the physical layout of the licensed premises including, at a minimum: doors, storage areas, & areas where liquor/beer is purchased and consumed.)

8. Ownership/Lease: If a licensed premise is owned by Applicant, provide date of purchase. Lease Coming
(if licensed premise is under a contract for deed or leased, attach copy of executed and dated contract or lease.)

9. If application is being sought by anyone other than the owner of the premise, attach a copy of the building lease.

10. Does Applicant certify that all property taxes have been paid to date on the licensed premises?

Yes No (if property taxes are not paid, this application WILL NOT BE PROCESSED).

11. Have any of the individuals in answer to Questions 3, 4, and 5 ever engaged in the sale or distribution of alcoholic beverages (as an owner, manager, or employee) at a location other than in the City of Mandan at any time prior to this application Yes: No: (if yes, explain in detail on separate page, location, type of business, and dates of license or employment).

12. Have any of the individuals identified in answer to Questions 3, 4, and 5 ever had a license of any kind (including alcoholic beverage license, other business license or motor vehicle license) suspended, revoked or non-renewed by any political subdivision, state or federal agency. Yes No (if Yes, explain in detail on a separate page, listing the name of the individual, the time and place of cancellation, the authority which cancelled the license of any kind, including alcoholic beverage license, other business license, or motor vehicle license, and the reason for such cancellation).

13. Have any of the individuals identified in answer to Questions 3, 4, and 5 ever been convicted of a violation of any law of the United States, or of any state or political subdivision, other than minor traffic violations, (including reckless driving or driving under the influence). Yes No (If yes, explain the violation in detail on a separate page, giving the date(s), place(s), and crime for which convicted (both felonies & misdemeanors), the amount of fines and terms of sentence and the court in which convicted).

14. Do any of the individuals named in answer to question 3, 4 or 5 have any interest whatsoever in any other liquor establishment, either wholesale or retail, within or outside the state of North Dakota. (include a right of inheritance by law or by will). Yes No If yes, please explain in detail on a separate page.

15. Does anyone other than the Individual or Partnership applying for this alcoholic beverage license or the business owning the premises have any right, estate, or interest in the lease hold, building, or furniture, fixtures or equipment, in the premises for which the license is requested? Yes No (If yes, explain in detail on a separate page, giving the names and addresses of any such person(s) and a statement of their interest in the premises, furniture, fixtures or equipment in the premises).

16. Does the Individual or Partnership applying for this alcoholic beverage license have any agreement, contract, understanding or intention to have any agreement, contract or understanding, with any person, partnership, or corporation to obtain for any other person, partnership or corporation, or to transfer to any other person, partnership or corporation the license for which this application is made or to obtain for any other person, partnership or corporation, for any other purpose other than for the specified use of the applicant. Yes No (if yes, explain in detail on a separate page, the name and address of such person, partnership or corporation and the conditions of agreement, contract or understanding.)

17. List the occupations and employers of each of the individuals listed in answer to Questions 3, 4 and 5 during the last ten (10) years. (On a separate sheet of paper if necessary).

18. Does the Individual or Partnership applying for this license, engage in any business other than that for which the license is sought or intending to engage in any business other than for the sale of alcoholic beverages under the license for which this application is made. Yes No (If yes, explain, in detail on a separate page giving the type of business and identification of any and all owners.)

19. List the names, addresses of at least 3 business references.

Johson Brothers of
N.D. 1358.39 ST. N. Fargo 58102

SYSCO
3225 12TH AVE. N.
Fargo 58102

Republic NATIONAL
company
1408 47 ST. N. Fargo
N.D. 58102

20. Does the building or structure in which the business is to be conducted meet all applicable state and local building, health and zoning regulations and requirements? Yes No Applicant must attach certifications of compliance from each state and/or local agency or department responsible for building, health and zoning regulations.)

21. List all the names of individuals who are authorized to make purchases for the business at which the license is to be used and located. (Note: The individuals must submit their names, current address and social security numbers on the forms which will protect their rights of privacy, but allow the appropriate police department background checks to be done. If not attached, the application will be deemed incomplete.)

Gregorio E Didomo

22. List the names of all individuals who are authorized to sign checks used to pay the payroll and expenses of the business at which the license is to be used. (Note: These individuals must submit their names, current address and social security numbers on the forms which will protect their rights of privacy, but allow the appropriate police department background checks to be done. If not attached, the application will be deemed incomplete.)

Gregorio E Didomo

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF MORTON)

**Affidavit of Application Completeness and Accuracy,
Sworn Statement of Conditions of Licensure,
And Agreement to Right of Entry of City Personnel**

I (We), GREGORIO C. DIDONNA and _____ having been sworn and under oath, state that I (We) am (are) the named Owner or Partners, of the above named business or Partnership which hereby applies for the above referenced alcoholic beverage license in the City of Mandan, and I (we) do hereby certify that the above information is true and correct to the best of my (our) knowledge and beliefs.

I(We) do further certify that said Individual or Partnership and employees will abide by the provisions of Chapter 12-01, 12-02 and 12-03 of the Mandan Code of Ordinances and any amendments thereto, as well as all applicable laws of the State of North Dakota, and the United States Government and that said Owner/Partners, and its employees will not permit the violation of any law, rule or regulation on the premises at which the license is authorized. I(we) further certify that I (the Partnership) acknowledge that this license will only authorize the retail sale of liquor, including beer, wine and other spirits as defined by the North Dakota Century Code, and limited by this application, at the premises designated in this application and depicted on the attached diagram.

I (We) do further certify and affirm on behalf of myself or the partnership and its employees that I (the partnership) will not sell or permit the sale of alcoholic beverages to a minor, incompetent person, or anyone who is under the influence or an habitual drunkard and that I will accept any penalty including, suspension or revocation of license for any violation of said prohibited sales.

I (We) do further certify and affirm that the applicant or Partnership understand and acknowledge that any license granted under this application confers not property right to the applicant or licensee, and that said license will not be transferable except by specific authority of the Mandan Board of City Commissioners.

I (We) do further certify and affirm that the applicant (partnership) and its employees do hereby consent to the entry of any city official (including administrative, building, zoning health and fire officials) and its police officers upon the premises described herein at any hours of the day or night and that they shall have free access to the described premises and every part thereof for the purpose of inspecting the premises and the records of this applicant relating to the operation of the premises, and purchase and sale of alcoholic beverages. I (We) further certify and a firm that I (the partnership), and its employees do hereby waive any and all rights that they may have under the Constitution of the United States and the State of North Dakota, relative to searches and seizures without issuance of a search warrant, and the Applicant does hereby agree that such immunities shall never be claimed by them, and that such entry, inspection, search and seizure maybe made at any time without a search warrant, which waiver of rights is acknowledged to be a condition of licensure.

Dated at Mandan, North Dakota, on this _____ day of _____, 20____.

Individual or Joint Ownership:

By: GREGORIO C. DIDONNA

By: _____

Partnership:

By: _____

By: _____

INDIVIDUAL OR JOINT OWNERSHIP

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF MORTON)

And _____

Being first duly sworn, depose(s) and says that he/she is the individual(s) who executed the foregoing and above affidavit of application completeness and accuracy, sworn statement of licensure conditions and agreement of right to entry by city personnel, that he/she has read each question and statement contained therein and knows the contents thereof to be true and accurate, and that he/she has furnished the answers set forth in said application, and that each one of said answers is true to the best of his/her knowledge.

Dated this 25 day of February, 2019.

Subscribed and sworn to before me on this 25 day of February, 2019.

(Notary Seal)

Karin M. [Signature]
(Notary Stamp)

PARTNERSHIP

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF MORTON)

We _____ And _____

Being first duly sworn, depose(s) and says that are the partners in the partnership identified herein, and who have executed the foregoing and above affidavit of application completeness and accuracy, sworn statement of licensure conditions and agreement of right of entry by city personnel, and that they have read each question and statement contained herein and know the contents thereof to be true and accurate, and that they have furnished the answers set forth in said application, and that each one of said answers is true to the best of his knowledge.

Dated this _____ day of _____, 20____.

Subscribed and sworn to before me on this _____ day of _____, 20____.

(Notary Seal)

(Notary Stamp)

11. DIDONNA ITALIAN RESTAURANT

2004-2011.

701-5951650

~~17~~

#17

SIXTEEN 03

MAIN EVENTS

1603 E. MAIN STREET
BISMARCK N.D.

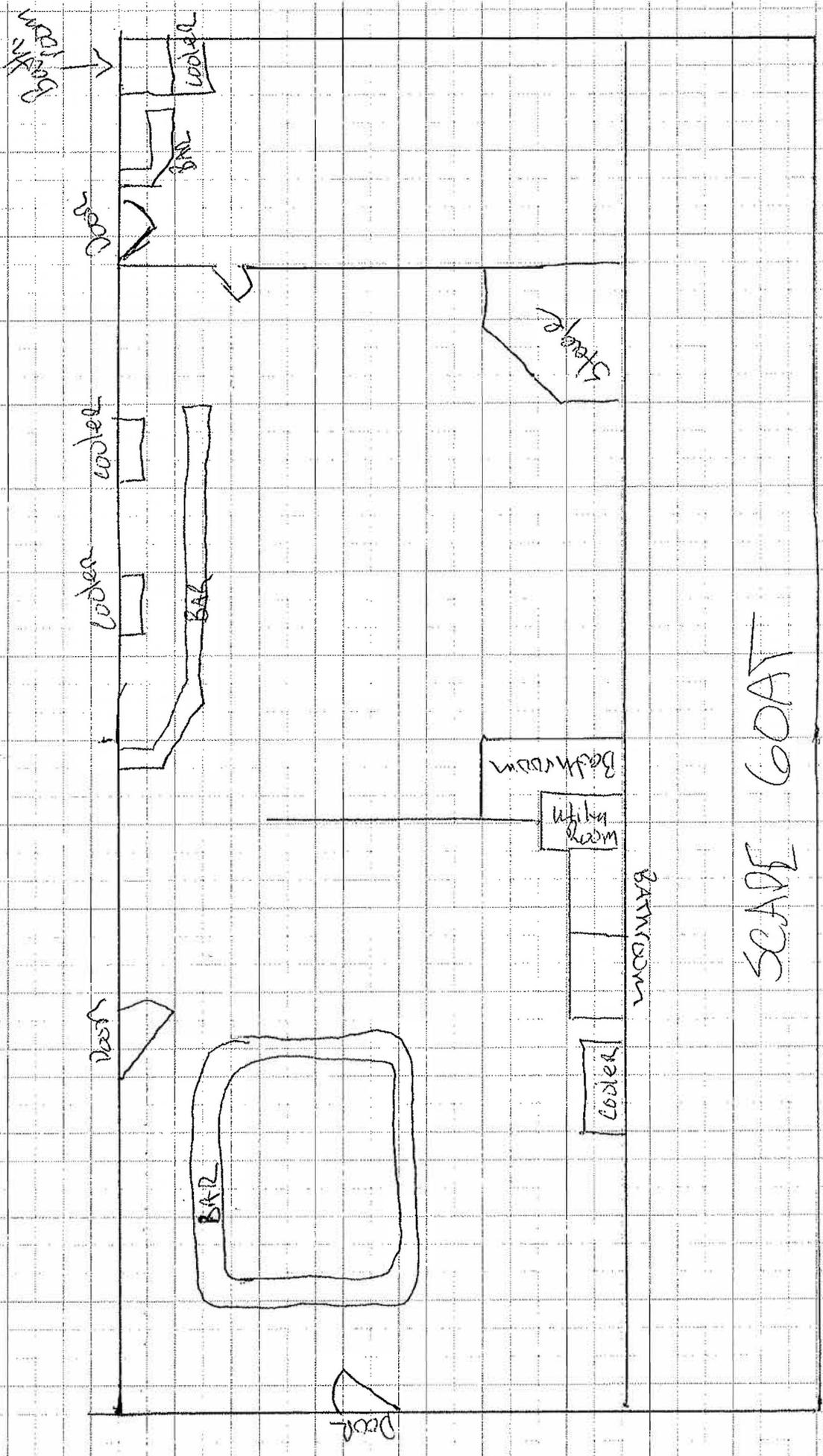
58301

CAPTAN FRECKLY

2500 PIRATES LOOP

SE. MANDAN. N.D.

58554.



SCAPE GOAT

BATHROOM

WASH SINK

BATHROOM

COOLER

Storage

BAR

BAR

COOLER

COOLER

COOLER

REST

SINK

COOLER

BATHROOM

DOOR

I Luke Burger, Junior Burger
Doing business as Silver Oak Bar
'Luke bar' want to transfer
my liquor license over to
Greg Anderson Dickson

Junior Burger

**LOCAL PERMIT OR CHARITY LOCAL PERMIT**

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL

LICENSING SECTION

SFN 17926 (10/2012)

Type: Local Permit * Charity Local Permit

Permit Number

2019-16

Name of Organization Mandan Ffa Alumni		Date(s) Authorized (Read instruction 2)		
Contact Person Michael Bahm	Business Phone Number (701) 425-7581	3/6/2019 Beginning	to	6/7/2019 Ending
Mailing Address Po Box 635	City Mandan	State ND	Zip Code 58554-0000	
Site Name Prairie West Golf Club	Site Address 2709 Longspur Trail			
City Mandan	State ND	ZIP Code 58554-0000	County Morton County	
Check the Game(s) Authorized: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit.				
<input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker* <input type="checkbox"/> Twenty-one* <input type="checkbox"/> Paddlewheels*				
Restriction:				
Requirement: For a "Charity Local Permit," the organization must file a "Report on a Charity Local Permit" with the city or county auditor and Office of Attorney General within 30 days of the event.				
Date 2/26/2019	Signature of: <input checked="" type="checkbox"/> City Auditor <input type="checkbox"/> County Auditor	Printed Name of City or County Auditor Lori Flaten		Auditor Telephone Number (701) 667-3455

Please see the instructions on the backside of this form on how to complete the Permit.

For a raffle or calendar raffle, read "Information Required to be Preprinted on a Standard Raffle Ticket" below.

cut along this line

INFORMATION REQUIRED TO BE PREPRINTED ON A STANDARD RAFFLE TICKET:

1. Name of organization;
2. Ticket number;
3. Price of the ticket, including any discounted price;
4. Prize, description of an optional prize selectable by a winning player, or option to convert a merchandise prize to a cash prize that is limited to the lesser of the value of the merchandise prize or four thousand dollars. However, if there is insufficient space on a ticket to list each minor prize that has a retail price not exceeding twenty dollars, an organization may state the total number of minor prizes and their total retail price;
5. For a licensed organization, print "office of attorney general" and license number. For an organization that has a permit, print the authorizing city or county and permit number;
6. A statement that a person is or is not required to be present at a drawing to win;
7. Date and time of the drawing or drawings and, if the winning player is to be announced later, date and time of that announcement. For a calendar raffle, if the drawings are on a same day of the week or month, print the day and time of the drawing;
8. Location and street address of the drawing;
9. If a merchandise prize requires a title transfer involving the department of transportation, a statement that a winning player is or is not liable for sales or use tax;
10. If a purchase of a ticket or winning prize is restricted to a person of minimum age, a statement that a person must be at least "___" years of age to buy a ticket, or win a prize;
11. A statement that a purchase of the ticket is not a charitable donation;
12. If a secondary prize is an unguaranteed cash or merchandise prize, a statement that the prize is not guaranteed to be won and odds of winning the prize based on numbers of chances; and
13. If a prize is live beef or dairy cattle, horse, bison, sheep or pig, a statement that the winning player may convert the prize to a cash prize that is limited to the lesser of the market value of the animal or four thousand dollars.

Mdn Police Dept. Sgt. Brent
 Wilmonth

PRIZE RESTRICTIONS:

A single cash prize cannot exceed \$4,000 and total cash prizes for a raffle cannot exceed \$4,000 in one day.

The retail value of a merchandise prize cannot exceed \$6,000.

The total of all cash prizes and retail value of all merchandise prizes for all games cannot exceed \$12,000 per year.

If the value of the planned cash and merchandise prizes exceeds \$12,000, the organization must reduce the prizes to this limit or apply for a state license with the Office of Attorney General.

LOCAL PERMIT AND CHARITY LOCAL PERMIT:

The major differences between a local permit and charity local permit are:

	<u>Local Permit</u>	<u>Charity Local Permit</u>
Number of events per year	Limited by prizes	One
Must file an information report	No	Yes
May pay employees compensation	Yes	No
Must use chips as wagers	No	Yes
Use of net income	Unrestricted	Restricted
Games allowed	Bingo Raffles Sports pools	Bingo Raffles Sports pools Poker Twenty-one Paddlewheels

Compared to a "Local Permit," an organization with a "Charity Local permit" may conduct 3 more game types, but is restricted to 1 event per year, must file an information report with the city or county and Office of Attorney General, and disburse net income to eligible uses. These uses are described by North Dakota Century Code § 53-06.1-11.1(2) and North Dakota Administrative Code § 99-01.3-14-02. Refer to the backside of the "Report on a Charity Local Permit" form for a general list of eligible uses.

For a Charity Local Permit, one method to ensure that the total of all cash prizes and retail value of all merchandise prizes do not exceed \$12,000 is to charge each player a standard amount at the start of the event for a certain number or value of chips. If a player loses all of the player's chips, the player may re-buy chips. The player would play games and, at the end of the event, the organization would auction merchandise prizes to the players. The player who bid the highest number or value of chips for a prize would win that prize. For those players who have chips but did not successfully bid on a prize, the organization may redeem the chips for a predetermined cash value per chip. For this method, the value of the players' chips redeemed for cash is not a prize.

INFORMATION REQUIRED TO BE PREPRINTED ON A STANDARD RAFFLE TICKET:

1. Name of organization;
2. Ticket number;
3. Price of the ticket, including any discounted price;
4. Prize, description of an optional prize selectable by a winning player, or option to convert a merchandise prize to a cash prize that is limited to the lesser of the value of the merchandise prize or four thousand dollars. However, if there is insufficient space on a ticket to list each minor prize that has a retail price not exceeding twenty dollars, an organization may state the total number of minor prizes and their total retail price;
5. For a licensed organization, print "office of attorney general" and license number. For an organization that has a permit, print the authorizing city or county and permit number;
6. A statement that a person is or is not required to be present at a drawing to win;
7. Date and time of the drawing or drawings and, if the winning player is to be announced later, date and time of that announcement. For a calendar raffle, if the drawings are on a same day of the week or month, print the day and time of the drawing;
8. Location and street address of the drawing;
9. If a merchandise prize requires a title transfer involving the department of transportation, a statement that a winning player is or is not liable for sales or use tax;
10. If a purchase of a ticket or winning prize is restricted to a person of minimum age, a statement that a person must be at least "___" years of age to buy a ticket, or win a prize;
11. A statement that a purchase of the ticket is not a charitable donation;
12. If a secondary prize is an unguaranteed cash or merchandise prize, a statement that the prize is not guaranteed to be won and odds of winning the prize based on numbers of chances; and
13. If a prize is live beef or dairy cattle, horse, bison, sheep or pig, a statement that the winning player may convert the prize to a cash prize that is limited to the lesser of the market value of the animal or four thousand dollars.



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: February 26, 2019
SUBMITTING DEPARTMENT: Business Development & Communications
DEPARTMENT DIRECTOR: Ellen Huber
PRESENTER: Ellen Huber, Business Development & Communication Director
SUBJECT: MGF Storefront Improvement application for 1710 E Main St.

STATEMENT/PURPOSE: To consider a Mandan Growth Fund (MGF) Committee recommendation for approval of a Storefront Improvement application for 1710 E Main St.

BACKGROUND/ALTERNATIVES: The MGF met Feb. 25, 2019. Among agenda items was consideration of an application by Jason Hageness for matching funds towards exterior improvements to the building at 1710 E Main St, the former United Printing building. The applicant is remodeling the entire building and is seeking a \$60,000 match for the exterior renovation that has an estimated cost of \$231,325.

Exterior improvements are to include new materials on all sides of the building. The south and east sides will have new storefront windows added and new doors with fiber cement siding and metal awnings on each entry. This siding will have a mixture of flush panels and veneer stone style. Automatic doors, landscaping and signage will be in addition to this amount. Hageness shared that he is also investing an additional \$22,000 to remove a MDU power pole and bury the lines in the area in front of the building.

Other building improvements will include a new roof and complete interior renovation. The applicant plans to renovate the building for professional services office use with room for one to 8 tenants. Target completion is this summer.

The exterior building and site plans have received approval from the Mandan Architectural Review Commission.

The applicant is applying for a \$60,000 match. The traditional match is \$30,000 for a building, but there is a provision in the Storefront Improvement program guidelines that allows for up to \$60,000 for larger or multi-story buildings. This building is 14,000 sf with three sides visible from E Main Street and the I-94 business loop.

ATTACHMENTS: Key excerpts of application. Full application available upon request.

FISCAL IMPACT: The source of funding would be the MGF unallocated balance for economic development projects as a whole, an amount of \$295,168.74 as of Jan. 31, 2019. If this application is approved, the uncommitted balance would be reduced to \$235,168.74.

STAFF IMPACT: Minimal for application processing and finalization.

LEGAL REVIEW: Attorney Brown has reviewed the application. Automatic doors are to be included in the project scope for each business space. A business incentive agreement will also be required.

RECOMMENDATION: The MGF voted 8-0 (with 1 member absent) to recommend approval of the application for \$60,000 in matching funds for the Storefront Improvement project by Jason Hageness for 1710 E Main St.

SUGGESTED MOTION: I move to approve providing \$60,000 in matching funds from the Mandan Growth Fund for the Storefront Improvement project by Jason Hageness for 1710 E Main Street.

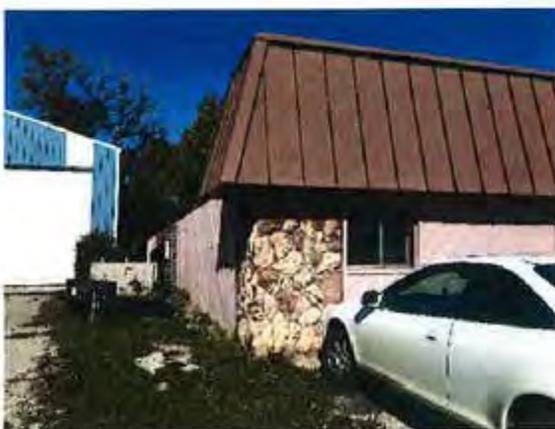
Existing Building



South Façade



East Façade



West Façade



1 Presentation Site Plan
 Scale: 1/32" = 1'-0"



Preliminary - Not for Construction



1 SE CORNER
Scale:



3 EAST SIDE
Scale:



2 SOUTH SIDE
Scale:



4 SW CORNER
Scale:

Preliminary - Not for Construction





1238 BASIN AVE, BISMARCK, ND 58504

(701) 258-1652

February 5th, 2019

Jason Hageness

Proposal

We will provide all Equipment, Material and Labor as listed for the storefront remodeling of the building located at 1710 East Main Street in Mandan.

Demo:

1. We will remove the façade, rock accents, wood planking, existing windows and doors on the South and East sides only. Roof to wall on East will need additional detailing and possible cricket framing.
2. We will cut and remove 2' of asphalt on the South and East side for access to foundation wall.

Site Items:

1. We will cut and remove 2' of asphalt on the South and East side for access to foundation wall. Brick ledge installed at both sides of the aluminum entrances to protect and support protruding wall finishes.
2. No asphalt or concrete patching at this time.

Framing Items Included:

1. South and East exterior walls will be framed using 18 gauge steel studs – 6" at all walls that will be even with the steel line and 10" studs at protruded storefront entrance areas. 3-5/8" framing above the roof – Assuming no shear walls required.
2. Framed openings for the aluminum storefronts will be wood bucked.
3. The walls will have R-19 fiberglass insulation with a 6 mil poly vapor barrier.
4. The exterior will be sheathed with 5/8" Densglass and covered with fabric weather barrier. No interior finishes figured at this time.

Exterior Finishes:

1. New framing on the East and South sides will be finished using Nichiha composite panels to match preliminary plans discussed with J2 Studios. Modern - Bamboo, Masonry – Cinderblock, Dimension – Gunsmoke.
2. The entrances will have 2"x8" framed aluminum - pergola type awning protruding 2' from the wall, the main entrance parapet will also have an aluminum topper of similar construction. The awnings will not have a solid pan; they will allow water and snow to pass through.

Doors and Windows:

1. Aluminum storefronts and doors per preliminary plans by J2 Studios. The main door on the South with transom above includes an automatic opener.

Electrical Items:

Allowance of \$3,000.00 included for removal/relocation of electrical items.

Base Bid Amount: \$ 231,325.00

Accepted By: _____

Submitted By:  _____

Date: _____

Date: 2/5/19

Option 1:

Add for each additional automatic door operator (electrical hookup not included): \$2,185.00

Accepted By: _____

Date: _____

Exclusions:

1. Evaluation of the existing building for allowable wall removals or additional loadings.
2. Any engineering required.
3. Any signage required.
4. Temporary Utility charges.
5. Any items not listed in proposal by others.

Terms:

1. Quote is good for 30 days.
2. A bank letter of credit is required for our contract amount.
3. We will bill by the end of each month for material delivered and labor performed.
4. Payments are due by the 10th of the following month.
5. A 1-1/2% per month charge will be added to any unpaid balances.



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: February 26, 2019
SUBMITTING DEPARTMENT: Business Development & Communications
DEPARTMENT DIRECTOR: Ellen Huber
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Restaurant Rewards Application by Balancing Goat Coffee Co.

STATEMENT/PURPOSE: To consider the Mandan Growth Fund (MGF) Committee's recommendation for an application by Balancing Goat Coffee Company for a five-year rebate of the 1% local sales tax.

BACKGROUND/ALTERNATIVES: The MGF met on Feb. 25, 2019. Among agenda items was consideration of the above application. Partners in this new independent business are Dawn Hager and Karen Schmidt. They plan to lease a 3,000 sf space at 2705 Sunset Drive, a new multi-tenant building under construction. The space will include a 2,500 sf coffee shop/café and a 500 sf studio for yoga and other fitness classes.

The menu will include a variety of coffee drinks to be made with beans roasted on site plus smoothies made with fresh fruit, smoothie bowls, sandwiches, salads, baked goods, as well as healthy grab and go snacks and meals.

Both Hager and Schmidt have held management positions in their careers and have taken coffee roasting classes. Hager brings hands-on coffee shop management and baking experience, too.

They plan to be open six days a week from 6 a.m. to 6 p.m. with a possibility of additional hours depending on demand. The restaurant will seat 30 people, plus it will have a drive-thru. They project about \$665,000 in annual restaurant sales. They anticipate having two full-time employees and 10-12 part-time employees. They will contract with instructors to teach in the fitness studio on a per class basis.

Construction of the building and the interior build-out is expected to be complete by mid-summer to allow for opening in August.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 5, 2019

Subject: Restaurant Rewards application for Balancing Goat Coffee Co.

Page 2 of 5

The partners are also seeking approval for the remaining \$1,144.76 in the Restaurant Rewards Program to assist with an interest buydown (see New Business 1iii).

ATTACHMENTS: Full application available upon request.

FISCAL IMPACT: Sales are estimated at \$664,764 annually, putting the projected rebate at \$6,647 per year or \$33,235 over five years. The rebate amount will ultimately depend on actual sales and sales tax remittances.

STAFF IMPACT: Minimal for application processing and finalization.

LEGAL REVIEW: Attorney Brown has reviewed the application. Additional requirements include installation of an automatic door, plus completion of a recipient agreement, business incentive agreement, and the N.D. Tax Department's Form 500 to allow for disclosure of sales tax collections.

RECOMMENDATION: The Mandan Growth Fund Committee voted (8-0 with 1 absent) to recommend the approval of the application by Balancing Goat Coffee Company for a Restaurant Rewards rebate of the 1% local sales tax in the first five years of operation.

SUGGESTED MOTION: I move to approve the application by Balancing Goat Coffee Company for a Restaurant Rewards rebate of the 1% local sales tax in the first five years of operation.



RESTAURANT REWARDS INCENTIVE PROGRAM
1% Local Sales Tax Rebate & Interest Buy-Down
Application & Checklist

PRIMARY CONTACT INFORMATION FOR THIS APPLICATION			
Name:	Karen Schmidt		
Title:	owner		
Address:	3605 Highway 1806 - Mandan ND 58554		
Phone:	701-214-2284	E-mail:	schmidtk6@bis.midco.net

Form of Assistance Sought: 1% Sales Tax Rebate
 Flex Pace Interest Buy-down (requires additional application)

APPLICANT INFORMATION			
Name of person or entity to receive rebate:	Balancing Goat Coffee Company		
State Sales Tax Number:	[redacted]		
Federal Employer Identification Number:	[redacted]		
Restaurant Ownership/Affiliation:	<input type="checkbox"/> Corporate	<input type="checkbox"/> Franchise	<input checked="" type="checkbox"/> Independent
Project Principals: (If applicable)	Name Karen Schmidt	% 50	Name %
	Name Dawn Hager	% 50	Name %
	Name	%	Name %
Are you applying for any other local incentives?	<input checked="" type="checkbox"/> Yes (please indicate programs) Lewis & Clark Development Group <input type="checkbox"/> No		

RESTAURANT INFORMATION							
Levels of Service:	<input type="checkbox"/> Full-Service (table side service)			<input checked="" type="checkbox"/> Counter service only			
	<input type="checkbox"/> Limited Service (order w/ cashier, food brought to tables)			<input checked="" type="checkbox"/> Drive-thru (must have customer seating to be eligible)			
Restaurant Concept:	<input type="checkbox"/> Fast Food		<input type="checkbox"/> Fast Casual		<input type="checkbox"/> Cafe		
Menu: (Primary Foods Served)	<input checked="" type="checkbox"/> Coffee Shop (at least 50% of sales must come from prepared food)			<input type="checkbox"/> Pub or Bar/Grill (at least 50% of sales must come from prepared food)		<input type="checkbox"/> Buffet	
	<input type="checkbox"/> Fine Dining			<input type="checkbox"/> Other (please explain):			
Do you have or intend to apply for a liquor license?	Attach document and/or describe here: coffee, smoothies, teas, breakfast & lunch grab & go <input type="checkbox"/> Yes, I have a license – please specify type: <input checked="" type="checkbox"/> I plan to apply for a license – please specify type: beer and wine <input type="checkbox"/> No, I do not plan to serve alcohol.						
Hours of Operation:	Su: am - pm	M: 6 am - 6 pm	Tu: 6 am - 6 pm	W: 6 am - 6 pm	Th: 6 am - 6 pm	F: 6 am - 6 pm	Sa: 6 am - 6 pm

Board of City Commissioners

Agenda Documentation

Meeting Date: March 5, 2019

Subject: Restaurant Rewards application for Balancing Goat Coffee Co.

Page 4 of 5

LOCATION INFORMATION			
Address of New or Expanding Restaurant:	2705 Sunset Dr, Mandan ND 58554		
Property Control – Land:	<input type="checkbox"/> Owned	<input type="checkbox"/> Leased Term of Lease	<input type="checkbox"/> Other (please explain)
Property Control – Building:	<input type="checkbox"/> Owned	<input checked="" type="checkbox"/> Leased Term of Lease 5 yrs	<input type="checkbox"/> Other (please explain)
Building Situation:	<input type="checkbox"/> Existing	<input type="checkbox"/> Addition	<input checked="" type="checkbox"/> New Construction
Building Square Footage:	Existing	Addition	New Construction 5,500
Seating Capacity:	Existing	Addition	New Construction 30
Building Improvements: (Cost & Description)			
Projected Opening Date:		August 2019	

FINANCIAL IMPACT			
Number of Jobs Created:	Full-Time 2	Part-Time 10-12	
Estimated Annual Sales:	\$664,764		
For existing restaurants – Last 2 Years of Retail Sales: Attach copies of sales tax submissions.	Year	Sales \$ Amount	Year Sales \$ Amount
	Year	Sales \$ Amount	Year Sales \$ Amount
Estimated daily customer traffic:	240		

Other Business & Applicant Information

Please submit as many of the following items as possible in order for the City of Mandan Growth Fund Committee and City Commission to make an appropriate decision on an application:

- Option to buy agreement for a building or letter of intent to lease contingent on receipt of incentives
- Business plan for new businesses or first-time restaurant operators
- Certificate of Good Standing from N.D. Tax Department
- Proof of registration with N.D. Secretary of State

Additional information or documentation may be requested if deemed necessary.

Be advised as per North Dakota open records law that applications may be released to the public if requested except for portions subject to NDCC 44-04-18.4 pertaining to confidentiality of trade secret, proprietary, commercial, and financial information.

Certification and Authorization

I / We certify that all information set forth in this application is a true representation of the facts pertaining to the proposed business for the purpose of obtaining funding under the City of Mandan Restaurant Incentive Program. I / We understand and acknowledge that any willful misrepresentation of the information contained in this application could result in disqualification from the program, requiring any funds already disbursed to be repaid in full to the City of Mandan.

The undersigned specifically authorizes the City of Mandan Business Development Office or its representatives to conduct a background check on the applicant, including the checking of references and the verification of any information on the application.

I understand that personal and/or business information may be requested pursuant to this applicant for an incentive and I hereby give my consent for such information to be provided to the City of Mandan Business Development Office, the Mandan Growth Fund Committee or its representatives. I also understand that the Mandan Growth Fund Committee and the Mandan City Commission retain the decision as to whether this incentive application is approved, disapproved, or modified. It is my right to accept or decline the incentive amount and terms approved by the program.

The applicant further certifies that he/she has read and understands the City of Mandan Restaurant Incentive Program Guidelines. The applicant must comply with all local, state and federal regulations. It is understood that all funding commitments are contingent upon the availability of program funds.

Release of information

The applicant hereby authorizes any third party to release to the City of Mandan Business Development Office without limit, any and all financial information regarding the applicant that is requested by the City of Mandan Business Development Office, its representatives or employees. Further, the applicant hereby authorizes release of said records and information by the City of Mandan Business Development Office to a third party, as deemed necessary by the City of Mandan Business Development Office, its representatives or employees.

All owners, officers or partners must sign this application.

Signature(s):

Applicant/Business Owner: Karen L. Schmidt Date: 2/13/19

Applicant/Business Owner: Dawn Hager Date: 2-13-2019

Submit application form and all supporting documents to:

City of Mandan
Business Development Office
205 Second Avenue NW
Mandan, ND 58554
Website: www.cityofmandan.com/businessdevelopment
E-mail: ehuber@cityofmandan.com

For more information, call City of Mandan Business Development Office; phone 701-667-3485.



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: February 26, 2019
SUBMITTING DEPARTMENT: Business Development & Communications
DEPARTMENT DIRECTOR: Ellen Huber
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Restaurant Rewards Application by Balancing Goat Coffee Co.

STATEMENT/PURPOSE: To consider the Mandan Growth Fund (MGF) Committee's recommendation for an application by Balancing Goat Coffee Company for partial funding toward a Bank of North Dakota Flex PACE interest buydown.

BACKGROUND/ALTERNATIVES: At a meeting on Feb. 25, 2019, the MGF reviewed the application for an interest buydown of financing using the Bank of North Dakota (BND) Flex PACE program for Balancing Goat Coffee Company. The purpose of the loan is for lease-hold improvements and equipment for a new coffee shop and café combined with a fitness studio at 2705 Sunset Drive, Mandan.

The applicants are seeking the remaining \$1,144.76 from the original \$162,000 set aside for use toward the community match for a BND interest buydown.

The total project cost is estimated at \$425,000. The applicants are seeking to finance \$340,000 of the costs and have a financing commitment from BNC National Bank. By participating in the BND Flex PACE program, the borrowers can benefit from a reduction in the interest rate from 6 percent to 1 percent for 36 months. BND will provide 65 percent of the buydown, or \$24,720. The required local community match is 35 percent or \$13,311. The Lewis and Clark Development Group, which manages revolving loan funds specific to Mandan, has approved providing the difference between any amount approved by the City of Mandan and the required local match.

The partners are also seeking approval of the Restaurant Rewards sales tax rebate (see New Business 1ii).

ATTACHMENTS: Application available upon request.

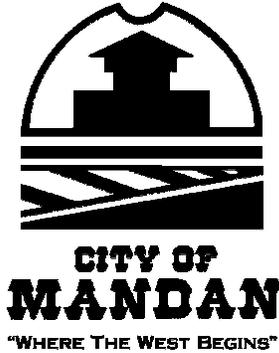
FISCAL IMPACT: The original allocation in the Growth Fund for the Restaurant Rewards Program interest buydowns was \$162,000. The uncommitted balance currently stands at \$1,144.76.

STAFF IMPACT: Minimal for application processing and finalization.

LEGAL REVIEW: Attorney Brown has reviewed the application.

RECOMMENDATION: The Mandan Growth Fund Committee voted (8-0 with 1 absent) to recommend the approval of the application by Balancing Goat Coffee Company for \$1,144.76 toward the local share of an interest buydown.

SUGGESTED MOTION: I move to approve the application by Balancing Goat Coffee Company for \$1,144.76 toward the local share of an interest buydown.



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: February 26, 2019
SUBMITTING DEPARTMENT: Business Development & Communications Department
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: MGF Recommendation for Expiration of the Restaurant Rewards Program

STATEMENT/PURPOSE: To consider a recommendation by the Mandan Growth Fund (MGF) Committee to sunset the Restaurant Rewards program that provides a sales tax rebate to new and expanding restaurants.

BACKGROUND/ALTERNATIVES: The MGF met to discuss the future of the program on Feb. 25, 2019. The program was first approved by the City Commission on April 5, 2016. The program was established for an initial one-year period with a deadline for application approval of March 31, 2017. The Commission on March 21, 2017 and Feb. 6, 2018, approved renewal of the program for additional one-year periods with the last extension effective through March 31, 2019

The program provides incentives for new and expanding restaurants with two components:

1. A rebate of the 1 percent local sales tax for five years. This component is performance-based, so the more successful the restaurant, the higher the rebate can be.
2. A set aside of \$162,000 in the Growth Fund for forgivable loans to provide the local match for a Bank of North Dakota Flex PACE interest buy-down. The program helps reduce the interest rate for financing of community development projects to as little as 1 percent. Funding for the interest buy-downs has been encumbered on a first-come, first-served basis.

If the application on the Commission's agenda for this meeting is approved, there will be nine restaurants approved for the program since 2016 and all of the funds set aside for interest buydowns will be committed.

Board of City Commissioners
 Agenda Documentation
 Meeting Date: March 5, 2019
 Subject: MGF Restaurant Rewards Extension
 Page 2 of 4

Following is a summary of restaurants that have applied for or been approved to date:

Restaurant Rewards Program - Summary

<u>Business Name</u>	<u>Address</u>	<u>MGF Rec</u>	<u>Commission Approval</u>	<u>Annual Sales Estimate</u>	<u>Annual Rebate Estimate</u>	<u>Interest Buydown</u>	<u>Status</u>
1 Pit Masters LLC (dba Dickey's Barbecue Pit)	4524 Memorial Hwy	8/11/2016	8/16/2016	\$1,300,000	\$13,000	\$ 37,142.16	open Jun-17
2 Taylor Made BBQ LLC	316 W Main St	9/14/2016	9/20/2016	\$240,000	\$2,400	no	open Dec-16
3 Carisch Inc (dba Arby's)	2640 Overlook Ln	6/27/2017	7/11/2017	\$1,100,000	\$11,000	no	open 11/14/2017
4 Harvest Catering & Events LLC (dba Mandan Depot Bier Hall)	401 W Main St	8/10/2017	8/15/2017	\$660,000	\$6,600	no	open 2/16/2018 Auto door pending
5 Mandan Bennigan's Inc.	1506 27th St NW	11/17/2017	11/21/2017	\$2,400,000	\$24,000	\$53,846.00	proof of financing received open 8/20/18
6 The Shoults Express LLC (dba Grand Junction Grilled Subs)	4524 Memorial Hwy	12/11/2017	12/19/2017	\$1,000,000	\$10,000	\$16,021.08	open 3/6/2018
7 W & G Investments Co., Ltd (dba Culver's) SHG, LLC - real estate	1704 E Main Street	1/26/2018	2/6/2018	\$2,000,000	\$20,000	\$53,846.00	proof of financing in 90 days By May 7, 2018 open 9/10/18
8 Old Ten Bar & Grill	417 E Main St	11/15/2018	11/20/2018	\$1,200,000	\$12,000	no (via LCDG)	expect to open by June 1
9 <i>Balancing Goat Coffee Co.</i>	<i>2705 Sunset Dr</i>	<i>2/25/2019</i>		<i>\$664,764</i>	<i>\$6,647</i>	<i>\$1,144.76</i>	
GRAND TOTAL					\$87,000	\$162,000.00	
Balance remaining						\$ -	

All types of restaurants have been eligible for the program, but an initial goal was to attract at least full-service, sit-down casual dining establishments. There was also a desire to see restaurant growth in each of the city's three major business districts: Main Street/downtown, north Mandan/I-94 corridor, and Memorial Highway/east Mandan. These goals are largely accomplished.

Retail leakage and surplus reports for 2018 and 2019 from Environics still show a significant gap between demand or expenditures that originate in Morton County as compared to the supply or sales by restaurants in the county. However, a couple of the new restaurants only opened in the last half of 2018, so there's likely a lag in the numbers.

There have been some setbacks in the Mandan's restaurant sector in recent years (the closure of Bar M Steakhouse and Bonanza, Pizza Hut's change to takeout and delivery only, and the transition of the Harvest from a restaurant to an event and catering space). Nonetheless, collections of the 1% restaurant and lodging tax indicate steady year over year growth over the last decade with 2018 revenues being up 5%. When hotel tax revenues are considered in isolation, it's apparent that the growth is from the restaurant sector.

ATTACHMENTS: 1) 1% restaurant & lodging tax revenue graph, 2) 2% hotel occupancy tax revenue graph. *Note: The Restaurant Rewards program overview and application available at www.cityofmandan.com/restaurantrewards or by request.*

FISCAL IMPACT: Restaurants approved for the program through March 31, 2019, will continue to receive five-year sales tax rebates as long as they remain compliant with all program requirements.

STAFF IMPACT: Staff time is required to market the program, process applications, secure agreements with approved restaurants, and administer the provision of rebates.

LEGAL REVIEW: Attorney Malcolm Brown has reviewed all information and was in attendance at the MGF meetings where expiration of the restaurant incentive was discussed.

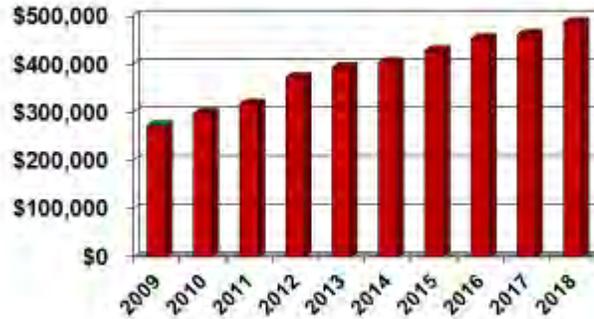
RECOMMENDATIONS: The MGF voted unanimously (8-0 with one member absent) to recommend a sunset of the Restaurant Rewards program sales tax rebate effective March 31, 2019.

SUGGESTED MOTION: I move to approve a sunset of the Restaurant Rewards program sales tax rebate effective March 31, 2019.



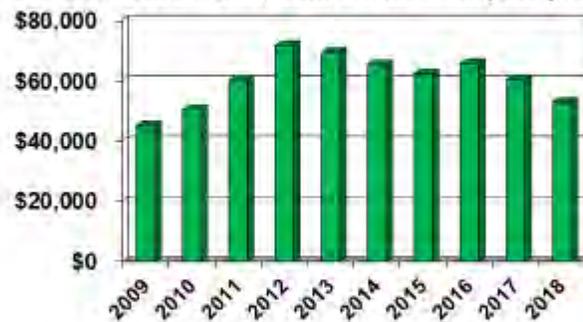
1% Restaurant & Lodging Tax Collections

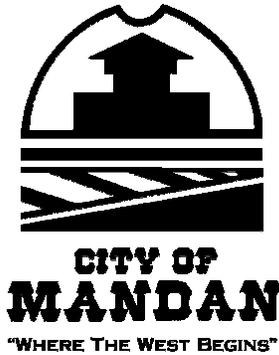
\$485,156, up 5% from prior year,



2% Hotel Occupancy Tax Collections

\$62,690 in 2018, down 12.5% from prior year





Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: February 26, 2019
SUBMITTING DEPARTMENT: Business Development & Communications Department
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: N.D. Opportunity Fund Loan Committee Appointment

STATEMENT/PURPOSE: To consider an appointment for representation of Mandan on the N.D. Opportunity Fund (NDOF) loan committee.

BACKGROUND/ALTERNATIVES: The NDOF leverages private financing to help small businesses attain loans and investments needed to expand and create jobs. Mandan is part of a consortium of 38 North Dakota municipalities that received funding for the loan participation program through the U.S. Treasury Department's State Small Business Credit Initiative in 2012. The Lewis and Clark Development Group manages the fund and processes all loan applications.

The North Dakota Opportunity Fund's 15-person loan committee is comprised of members experienced in commercial lending, business start-up and expansion, and economic development. The committee makes all credit decisions to include considering and voting on applications for loans with input on rates, terms and conditions. Committee meetings are typically held via conference call, generally once to twice a month as needed to consider applications in a timely manner. Mandan is allotted one appointment or vote. Appointments are generally for two years or until filled. A quorum of loan committee members is necessary, so the expectation is for the appointee to participate in at least 50 percent of meetings with an alternate appointee filling in as needed.

I sent an email on Feb. 15, 2019, to market presidents and branch managers of all financial institutions with Mandan locations to alert them that we were seeking volunteers experienced in commercial lending to represent Mandan on the loan committee. Three people expressed interest by the Feb. 26 deadline. They are Jason Arenz of BNC National

Bank; Greg Ellwein of Gate City Bank (Bismarck branch); and Jeff Erickson, Security First Bank.

ATTACHMENTS: Letters of interest.

Learn more about the NDOF at <https://lcdgroup.org/business-loans>.

FISCAL IMPACT: n/a

STAFF IMPACT: City of Mandan Business Development and Communications Director Ellen Huber continues to represent Mandan on the NDOF steering committee, elected chair again for 2019, and can continue to serve as an alternate on the NDOF loan committee for meetings if the appointee and alternates are not available.

LEGAL REVIEW: n/a

RECOMMENDATIONS: I recommend the appointment of Jason Arenz to the N.D. Opportunity Fund loan committee with the designation of Jeff Erickson and Greg Ellwein as alternates, all for terms beginning immediately and ending Dec. 31, 2020, or until filled.

SUGGESTED MOTION: I move to appoint Jason Arenz to the N.D. Opportunity Fund loan committee with the designation of Jeff Erickson and Greg Ellwein as alternates, all for terms beginning immediately and ending Dec. 31, 2020, or until filled.



BNC
National Bank

2711 Sunset Drive NW Mandan, ND 58554 www.bncbank.com Telephone: (701) 663-5448

February 21, 2019

This letter is to represent my interest in becoming a committee member for the North Dakota Opportunity Fund (NDOF) loan committee.

I currently serve as the Bismarck Mandan President for BNC National Bank and office out of the BNC Branch in Mandan where I work and have lived for a good portion of my life. I have been in Commercial Banking for the past 19 years and my wife and I own "Once Upon A Child" a Franchised gently used baby clothing/furniture store which we have owned and operated for the past 15 years.

With my industry experience, business ownership, and a strong desire to make Mandan into a City that we all know it is capable of being, I believe that I am a qualified candidate for the appointment.

If you have any questions, please feel free to give me a call at (701) 667-8880.

Sincerely,

Jason J. Arenz
Bismarck Mandan President





For a Better Way of Life.®

P.O. Box 2847 • Fargo, ND 58108-2847

February 20, 2019

Ellen Huber
City of Mandan Business Development and Communications Director
205 Second Ave. NW
Mandan, ND 58554

Dear Ellen:

I would like this letter to serve as my interest for the appointment in the North Dakota Opportunity Fund loan committee. I would be able to meet the requirements of the Committee Meetings via conference call, as well as attending more than 50% of the meetings for said committee.

My qualifications for this role would include: I have been with Gate City Bank in the Mandan and Bismarck communities for the past twenty-two years. Five of those years was as the Manager of our Mandan location. I have very fond memories of working with many business people and residents of Mandan. I have a very broad range of expertise as I served in a Management capacity for sixteen years and have been a Business Banker at our Downtown location for the past three years. This position has allowed me to become very versatile in the knowledge and understanding of the needs in commercial lending, business start-ups and expansion, and economic development. I am fluent with commercial rates, terms and conditions, as well as supplementary programs that would be available for businesses. I feel that I am experienced and well versed in many areas of business lending.

I have always been engaged with the local communities in volunteer efforts, various Boards, and have served in many leadership organizations with the communities. I take a great deal of pride in business and economic development and would love to be involved in a role that could assist in that growth in the Mandan community. With my vast experience in management and lending, I would be a strong candidate for this committee, and I would be honored to be part of the loan committee for the North Dakota Opportunity Fund.

Please let me know if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Ellwein", written over a white background.

Greg Ellwein
Business Banker, Vice President
Gate City Bank

701-293-2400 • 800-423-3344 • gatecity.bank

From: [Jeff Erickson](#)
To: [Ellen Huber](#)
Subject: Letters of Interest for Appointment to NDOF Loan Committee
Date: Tuesday, February 26, 2019 3:37:07 PM

Dear Ellen,

I wish to volunteer as the City of Mandan's representative to the North Dakota Opportunity Fund (NDOF) loan committee. I have been a commercial and agricultural loan officer for the past 30 years. I am currently employed as Vice President of Commercial Lending for Security First Bank of North Dakota in their Mandan location. This year marks my 15-year employment anniversary. My Family and I moved to Mandan in 2001 (18 years ago). We have enjoyed Mandan's small town feel along with the amenities associated with a larger city.

I strongly support local and regional economic development programs. As a lender, I have utilized many of these programs and have witnessed the positive impact it has on our customers and the overall business community. I have also actively served on many economic development boards and committees. I am currently a Committee member for the Mandan Growth Fund and have served on the committee for nearly 9 years. I also serve on the Mandan Progress Organization's Board of Directors and its executive committee. I am now the Immediate Past President but have held the office of Treasurer and President.

I would be honored to serve as your representative to the NDOF loan committee. Thank you for your consideration.

Sincerely,

Jeff Erickson
Vice President Commercial Lending
614 West Main Street
Mandan, ND 58554
jeff@securityfirstbank.com
Direct Line: 701-355-5977
Mandan office: 701-667-7000
Mandan Fax: 701-663-1711





Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: February 28, 2019
SUBMITTING DEPARTMENT: Planning and Engineering
DEPARTMENT DIRECTOR: Justin Froseth, PE
PRESENTER: Justin Froseth, Planning and Engineering Director
SUBJECT: NDDOT I-94 Resurface Project, Concurrence of Award

STATEMENT/PURPOSE: To consider approval of the concurrence of award for the project as requested by the NDDOT. The project would be primarily on the I-94 and I-194 interstate roadways. However, some of the improvements would take place on Highway 810, which is the segment known as Expressway that is south of Memorial Highway to the Expressway bridge. This Highway 810 segment is part of the arterial roadway system in which the city has 10% funding participation responsibility, therefore the need for the city to indicate concurrence of award to show our commitment to the funding share.

BACKGROUND/ALTERNATIVES: At the January 22nd City Commission meeting, commission approved of the Cost Participation and Maintenance (CPM) agreement which also indicated our commitment to the funding share. That agreement was pre-bid and came with an estimate associated with the final design. That estimate reflected our local share at \$101,210. The estimate last summer when we budgeted our local share was for an amount of \$35,056. Therefore, the January 22nd action also included a 2019 budget amendment up to the estimated \$101,210.

The project was bid on February 8th. Unfortunately, the bid results came in about 26% above estimate for the portion that the city has cost share of. Based on bids, the new local share estimate for Mandan is \$128,427. That was shared in a letter to city staff which also included a request that the city concur to award the low bid submitted by Central Specialties, Inc.

Since then, City staff has reached out to DOT staff to discuss options given the 265% increase this project has went up since we budgeted last summer. We asked if given the amount of increase, the DOT would give special consideration for this project to keep Mandan's share at the \$101,210 amount that we agreed to through the CPM agreement. The response was that they could not do that. Essentially, the program amounts are what they are based on percentage of project costs regardless of how much the estimate

increased throughout project planning. The DOT staff re-stated, as they had before, that they did not see an issue with the city paying the original budget amount in 2019 for 2019 work and increasing our budget amount in 2020 to pay for the remainder of the 2019 and 2020 work in 2020.

ATTACHMENTS:

- 1) Full Project Title Sheet
- 2) Letter Requesting Concurrence of Award

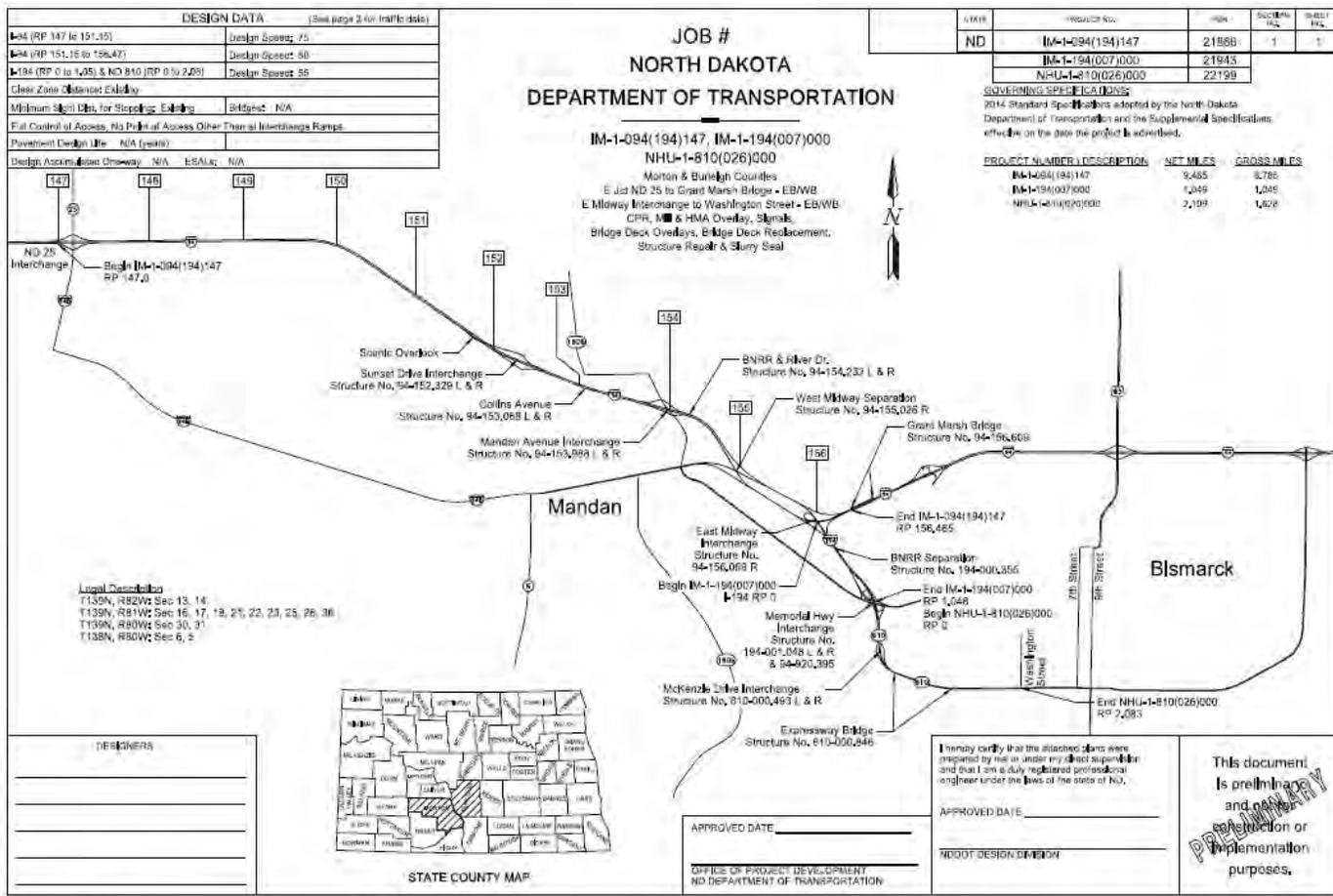
FISCAL IMPACT: A budget amendment is required to increase the amount of sales tax fund for this project from the budgeted \$101,210 to the latest estimate of \$128,427. Finance Director Welch was consulted and verified that this amended amount can be handled by the sales tax fund, perhaps taking the DOT up on the option to pay for some in 2020.

STAFF IMPACT: Ongoing plan and project review as requested.

LEGAL REVIEW: All commission agenda documents have been forwarded to the City Attorney for review.

RECOMMENDATION: Recommend to approve the budget amendment from \$101,210 to \$128,427 and the Concurrence of Award for the Highway 810 portion of the I-94 resurfacing project.

SUGGESTED MOTION: Move to approve the budget amendment from \$101,210 to \$128,427 and the Concurrence of Award for the Highway 810 portion of the I-94 resurfacing project.





North Dakota Department of Transportation

Thomas K. Sorel
Director

Doug Burgum
Governor

February 11, 2019

Mr. Justin Froseth
City Engineer
205 2nd Ave. NW
Mandan, ND 58554

PROJECT: NHU-1-810(026)000, PCN 22199 – ND 810 MEMORIAL HIGHWAY TO WASHINGTON STREET

Bids for the construction on the above noted project plus four tied projects were taken at our bid opening of February 8, 2019. A copy of the Contract Detail Estimate is enclosed.

The low bid for CPR, Mill and HMA, Signals, Bridge Deck Overlays, Bridge Deck Replacement Structure Repair, and Slurry Seal was submitted by Central Specialties, Inc. of Alexandria, MN in the amount of \$20,340,245.75. According to the agreement with the City of Mandan, the City's share of the project is estimated to be \$128,427.26. The City is not responsible for any costs on the four tied projects.

Before we can award to the low bidder, we need the City of Mandan to **concur**, in writing, in the estimated amount by February 21, if possible.

Questions should be addressed to the Construction Services Division at (701)328-2566.

A handwritten signature in black ink, appearing to read "Phillip Murdoff".

PHILLIP MURDOFF, P.E. - CONSTRUCTION SERVICES ENGINEER

80/pm/lp
Enclosure



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: February 28, 2019
SUBMITTING DEPARTMENT: Assessing
DEPARTMENT DIRECTOR: Kimberly Markley
PRESENTER: Kimberly Markley, City Assessor
SUBJECT: Introduction of Lila Teigen, Real Property Appraiser III (Assessing Department)

STATEMENT/PURPOSE: To introduce Lila Teigen, Real Property Appraiser III (Assessing Department).

BACKGROUND/ALTERNATIVES: Ms. Teigen started in the assessing office yesterday March 4, 2019. Lila comes to us from Buffalo SD. She has over 25 year experience working in county government with 8 years as the Harding County Director of Equalization.

She has been a member of the South Dakota Association of Assessing Officers, North Central Regional Association of Assessing Officers, and was elected to serve as the Vice Chair of the South Dakota Association of Assessing Officers.

FISCAL IMPACT: The Real Property Appraiser III is a budgeted full-time position.

STAFF IMPACT: The Real Property Appraiser III performs highly complex appraisal and assessment work of the land and building values of new and existing residential and commercial type property; work involves investigations and value estimates to be used as a basis for year-end sales studies. Prepares property records, inspects interior and exterior of buildings to record physical characteristics of properties, takes measurements of structures to determine accurate square footage, working with blueprints, prepares field sketches and takes photographs of property as needed. Verifies property sales, attends various hearings, meetings and seminars as needed to assist the City Assessor; establishes and maintains good working relationships with community, other agencies and co-workers. The Real Property Appraiser III works under the general guidance and direction of the City Assessor.



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: February 28, 2019
SUBMITTING DEPARTMENT: Finance
DEPARTMENT DIRECTOR: Greg Welch
PRESENTER: Greg Welch, Finance Director
SUBJECT: Introduction of Jonathan Mathisen, Payroll and Benefits Technician (Finance Department)

STATEMENT/PURPOSE:

Introduction of Jonathan Mathisen, Payroll and Benefits Technician (Finance Department).

BACKGROUND/ALTERNATIVES:

Jonathan previously worked at Unisys Corporation in Bismarck as a Payroll Analyst for over 10 years. Jonathan graduated from the University of Mary with degrees in Accounting, Business Administration, and Computer Information Systems. Jonathan joined the City on February 25, 2019.

FISCAL IMPACT:

The Payroll and Benefits Technician is a budgeted full-time position.

STAFF IMPACT:

The Payroll and Benefits Technician performs technical work that is responsible for processing and reviewing payroll, benefits and leave records of employees. The Payroll and Benefits Technician works under the general supervision of the Assistant Finance Director. The Payroll and Benefits Technician also provides general human resources support to the Human Resource Director.

North Dakota Legislative Branch

Legislative Bill Tracking - Sixty-sixth Assembly (2019) - View Bill Tracking

List: Legislative Update 4

[Tracking Lists](#) | [Today's Calendar](#) | [Committee Hearings](#) | [Conference Committee Hearings](#) | [Bill Status](#) | [Bills Introduced Since 02/28/2019](#)
[Manage Mobile Devices](#)

Select All None	Bill	Status	Title	Description	Comment	Action
<input type="checkbox"/>	HB 1041	House: PASSED Senate: PASSED 02/27 S Second reading, passed, yeas 45 nays 0 02/28 H Returned to House	Relating to the homestead tax credit for special assessments; to provide for application; and to provide an effective date.	Increase amount from \$6,000 to \$15,000 and lower interest rate from 9% to 6% Amendments kept \$6,000 and lowered interest rate	Finance - Support PASSED - HOUSE	Follow this Bill - RSS View Edit Delete
<input checked="" type="checkbox"/>	HB 1066	House: PASSED Senate: INTRODUCED 02/20 S Introduced, first reading, referred Finance and Taxation Committee 03/05 S Committee Hearing - 09:00 AM	Relating to infrastructure funds; to amend and reenact subsection 5 of section 57-51-01 and sections 57-51-15, 57-51.1-07.3, and 57-51.1-07.5 of the North Dakota Century Code, relating to oil and gas tax revenue allocations; to provide a continuing appropriation; to provide for a report; and to provide an effective date.	"Prairie Dog Bill" Hearing held, much support from around the state	Support Airport - Support	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1117	House: PASSED Senate: INTRODUCED 02/18 S Introduced, first reading, referred Political Subdivisions Committee 03/01 S Committee Hearing - 09:00 AM	Relating to publication of legal notices in a newspaper and online.	Place legal notices online	Administration - support PASSED HOUSE	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1165	House: PASSED Senate: INTRODUCED 02/28 S Request return from committee 02/28 S Rereferred to Political Subdivisions	Relating to nonconforming structures.		Building Official - Oppose	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1207	House: PASSED Senate: INTRODUCED 02/20 S Introduced, first reading, referred Judiciary Committee 03/05 S Committee Hearing - 10:30 AM	Relating to costs awarded to a defendant.		Legal - Monitor	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1210	House: PASSED Senate: INTRODUCED 02/27 S Introduced, first reading, referred Political Subdivisions Committee 03/08 S Committee Hearing - 10:15 AM	Relating to special elections for property owners in a proposed extraterritorial zoning area.	Residents of Extraterritorial zoning jurisdiction of a city is entitled to vote in governing body of the city	Administration & Planning	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1227	House: PASSED Senate: INTRODUCED 02/18 S Introduced, first reading, referred Political Subdivisions Committee 03/07 S Committee Hearing - 11:15 AM	Relating to prohibiting residential rental licensure fees.	prohibits residential rental license fees	Admin	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1282	House: PASSED Senate: INTRODUCED 02/18 S Introduced, first reading, referred Judiciary Committee	Relating to limitations on public employer consideration of criminal background.	Unable to look into or consider criminal background until the applicant is	Human Resources - Monitoring Passed House - If Passes Senate will need to adjust job application	Follow this Bill - RSS View Edit Delete

		03/04 S Committee Hearing - 11:00 AM		selected for an interview, unless statutory obligation. Currently, we conduct a formal background check after a conditional offer has been accepted. No ND Court searches before setting up interview.	forms PASSED - HOUSE	
<input type="checkbox"/>	HB 1286	House: PASSED Senate: INTRODUCED 02/27 S Received from House 02/27 S Introduced, first reading, referred Judiciary Committee	Relating to law enforcement agencies reporting seizures and forfeitures; and to amend and reenact sections 19-03.1-36.2, 19-03.1-36.6, 19-03.1-36.7, 29-27-02.1, and subsection 1 of section 54-12-14 of the North Dakota Century Code, relating to forfeiture proceedings, contested forfeiture hearings, legal interests in forfeited property, disposition of statutory fees, fines, forfeitures, and the attorney general assets forfeiture fund.	Takes away ability to utilize forfeited assets which would negatively impact Police Department	Police - Oppose	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1289	House: PASSED Senate: INTRODUCED 02/20 S Received from House 02/20 S Introduced, first reading, referred Finance and Taxation Committee	Relating to appeals from decisions of local governing bodies; to amend and reenact subsection 1 of section 28-34-01, section 57-12-01.1, and subsection 2 of section 57-23-06 of the North Dakota Century Code, relating to notice filings and property valuation spot checks; to provide for application; and to provide an effective date.		Assessing/Finance - Monitor	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1334	House: PASSED Senate: INTRODUCED 02/14 S Received from House 02/18 S Introduced, first reading, referred Judiciary Committee	Relating to sealing a criminal record of a driving under the influence offense.	sealing record... what to do with background checks for liquor licenses	Administration - monitor	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1431	House: PASSED Senate: INTRODUCED 02/20 S Received from House 02/20 S Introduced, first reading, referred Political Subdivisions Committee	Relating to the parts of the state included in the southwest water authority and the membership of the board of directors of the southwest water authority; and to provide an effective date.	Southwest Water Authority remove City of Mandan from mill levy Do Pass out of Committee	Administration - Support	Follow this Bill - RSS View Edit Delete
<input type="checkbox"/>	HB 1443	House: PASSED Senate: INTRODUCED 02/18 S Introduced, first reading, referred Government and Veterans Affairs Committee	Relating to historic horse race wagering and rent limits; and to amend and reenact sections 53-06.2-01, 53-06.2-04, 53-06.2-05, and 53-06.2-06,		PASSED	Follow this Bill - RSS View Edit Delete

		03/01 S Committee Hearing - 09:00 AM	subsection 1 of section 53-06.2-08, and sections 53-06.2-10, 53-06.2-10.1, and 53-06.2-11 of the North Dakota Century Code, relating to the regulation of historic horse racing.				
<input type="checkbox"/>	HB 1474	House: PASSED Senate: INTRODUCED 02/20 S Introduced, first reading, referred Finance and Taxation Committee 03/06 S Committee Hearing - 09:00 AM	Relating to the authority of a county or city to levy an infrastructure tax in lieu of special assessments; and to amend and reenact sections 11-09.1-05, 11-11-55.1, 40-05.1-06, 40-12-02, and 40-23-21 of the North Dakota Century Code, relating to the authority of cities and counties to levy an infrastructure tax in lieu of special assessments and special assessment fund balances.	Street Maintenance Fee as part of Utility Bill	Administration - Finance - monitor WOULD ALLOW CITY TO ASK VOTERS IF WANTED ANOTHER FUNDING OPTION	Follow this Bill - RSS	View Edit Delete
<input type="checkbox"/>	HB 1487	House: PASSED Senate: INTRODUCED 02/18 S Introduced, first reading, referred Finance and Taxation Committee 03/04 S Committee Hearing - 10:15 AM	Relating to an optional residential property tax freeze for seniors; and to provide an effective date.	freeze property valuations on property less than \$400k if 65 years or older, majority of property valuations are less than \$400k thus freezes property tax	Assessing - Turned into a Study Resolution	Follow this Bill - RSS	View Edit Delete
<input type="checkbox"/>	HB 1488	House: PASSED Senate: INTRODUCED 02/20 S Received from House 02/20 S Introduced, first reading, referred Political Subdivisions Committee	Relating to special assessment fund balances.	\$\$ in Special Assessment Fund used to pay costs early	Finance - Monitor	Follow this Bill - RSS	View Edit Delete
<input type="checkbox"/>	SB 2010	Senate: PASSED House: INTRODUCED 02/27 H Introduced, first reading, referred Appropriations Committee 02/28 H Committee Hearing - 10:00 AM	Relating to boiler inspections and North Dakota reserve fund use of producers; to amend and reenact sections 18-04-04, 18-04-04.1, and 18-04-05, subsection 2 of section 26.1-01-07, section 26.1-01-09, subsection 1 of section 26.1-03-17, and sections 26.1-21-03, 26.1-21-17, 26.1-22-03, and 26.1-23.1-01 of the North Dakota Century Code, relating to the state fire and tornado fund, the state bonding fund, fees chargeable by the insurance commissioner, the salary of the insurance commissioner, and government self-insurance pools; to repeal chapter 26.1-22.1 of the North Dakota Century Code, relating to boiler inspections; to provide a penalty; to	Fire Insurance Premium	Fire - Support	Follow this Bill - RSS	View Edit Delete

			provide a continuing appropriation; and to provide a contingent effective date.				
	SB 2020	Senate: PASSED House: INTRODUCED 02/27 H Introduced, first reading, referred Appropriations Committee 03/07 H Committee Hearing - 08:30 AM	Relating to the authorization of a Bank of North Dakota line of credit; to provide for Red River valley water supply requirements; to provide an exemption; to provide for a report to the legislative management; and to provide a statement of legislative intent.	State Water Commission - track to see if \$\$ in for Intake and LHWRD DO Pass out of Committee	Administration - monitor	Follow this Bill - RSS	View Edit Delete
	SB 2047	Senate: PASSED House: INTRODUCED 02/27 H Introduced, first reading, referred Government and Veterans Affairs Committee 03/07 H Committee Hearing - 08:15 AM	Relating to the computation of retirement benefits.	Current multiplier is 2%, reduces benefit to 1.75% for members first enrolled after 12/31/2019	Police & Fire - Monitor	Follow this Bill - RSS	View Edit Delete
	SB 2048	Senate: PASSED House: INTRODUCED 02/27 H Introduced, first reading, referred Government and Veterans Affairs Committee 03/07 H Committee Hearing - 08:15 AM	Relating to increased employer and employee contributions under the public employees retirement system defined benefit and defined contribution plans.	Increase employee and employer contributions by 1% beginning Jan. 1, 2020	Police & Fire - Monitor	Follow this Bill - RSS	View Edit Delete
	SB 2189	Senate: PASSED House: INTRODUCED 02/13 H Introduced, first reading, referred Political Subdivisions Committee 02/28 H Committee Hearing - 09:30 AM	Relating to the meeting of the board of equalization of a township and a city.	Changes BOE date to within first 15 days of April, rather than 2nd Monday	Assessing/Finance - Support PASSED Senate	Follow this Bill - RSS	View Edit Delete
	SB 2209	Senate: PASSED House: INTRODUCED 02/13 H Introduced, first reading, referred Industry, Business and Labor Committee 03/04 H Committee Hearing - 02:00 PM	Relating to protection for records related to critical infrastructure and security planning, mitigation, or threats.	certain infrastructure records to be protected	Administration - support PASSED Senate	Follow this Bill - RSS	View Edit Delete
	SB 2213	Senate: PASSED House: INTRODUCED 02/18 H Introduced, first reading, referred Political Subdivisions Committee 03/07 H Committee Hearing - 09:00 AM	Relating to the southwest water authority and district budget tax levies.	Permanent Mill for SW Water	Administration - Oppose	Follow this Bill - RSS	View Edit Delete
	SB 2275	Senate: PASSED House: INTRODUCED 02/18 H Received from Senate 02/27 H Introduced, first reading, referred Appropriations Committee	Relating to the infrastructure revolving loan fund debt repayments; to amend and reenact sections 6-09-49, 6-09.4-06, and 6-09.4-10, subsection 6 of section 21-03-07, and sections 21-03-19, 57-15-06.6, and 57-47-02 of the North Dakota Century Code, relating to the infrastructure revolving loan fund, borrowing and lending authority, reserve funds, and expanded bonding authority for counties; to repeal section 61-	\$55M in Legacy earnings to fund repayment of infrastructure revolving loan fund DO PASS out of Committee	Administration - monitor	Follow this Bill - RSS	View Edit Delete

			02-78 of the North Dakota Century Code, relating to a revolving loan fund for water projects; to provide a transfer; to provide a continuing appropriation; to provide a bond issuance limitation; and to provide an effective date.			
	SB 2304	Senate: PASSED House: INTRODUCED 02/18 H Introduced, first reading, referred Political Subdivisions Committee 03/07 H Committee Hearing - 09:45 AM	Relating to the effect of state law on city or county ordinances and limits on city fines and penalties.		Police - Support	Follow this Bill - RSS View Edit Delete

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Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: February 11th, 2019
SUBMITTING DEPARTMENT: Police
DEPARTMENT DIRECTOR: Chief Jason Ziegler
PRESENTER: Chief Jason Ziegler
SUBJECT: Introduction and First Consideration of Ordinance 1307 to Amend and Re-enact the Mandan Code of Ordinances Relating to Animals.

STATEMENT/PURPOSE: Consider Introduction and First Consideration of Ordinance 1307 to Amend and Re-enact the Mandan Code of Ordinances Relating to Animals.

BACKGROUND/ALTERNATIVES: Beginning in the summer of 2018, discussions have been held with City Commissioners and city officials regarding updating the current ordinances relating to dogs and cats in Mandan Municipal Code. In November 2018, a first reading on a proposed new ordinance was held. After this reading, additional input was received regarding the proposed ordinance. It was decided to re-examine the proposed changes. Instead of making numerous changes to the ordinance proposed in November, a new ordinance has been drafted. The new ordinance contains a number of additional definitions. Several nuisance related sections were repealed and were combined into an expanded restricted activities section. Changes were made to the sections involving running at large and leashes. In addition, a number of sections have been changed to allow for the issuance of a citation for violations instead of having to do a long form complaint for charges.

ATTACHMENTS: Ordinance 1307 to Amend and Re-enact the Mandan Code of Ordinances Relating to Animals

FISCAL IMPACT: None

STAFF IMPACT: None

LEGAL REVIEW: Ordinance 1307 was drafted by the City Attorney

Board of City Commissioners
Agenda Documentation
Meeting Date: February 19, 2019
Subject: Introduction and First Consideration of
Ordinance 1307
Page 2 of 2

RECOMMENDATION: Recommend approval of the Introduction and First Consideration of Ordinance 1307 to Amend and Re-enact the Mandan Code of Ordinances Relating to Animals.

SUGGESTED MOTION: Move to approve the Introduction and First Consideration of Ordinance 1307 to Amend and Re-enact the Mandan Code of Ordinances Relating to Animals.

This document has notes which will help to explain the changes made from the current ordinance.

ORDINANCE NO. 1307

An Ordinance to Amend and Re-enact

Article 1, Sec. 6-1-1, Sec. 6-1-2; Article 2, Sec. 6-2-1, Sec. 6-2-2, Sec. 6-2-4, Sec. 6-2-5, Sec. 6-2-7, Sec. 6-2-8, Sec. 6-2-10, Sec. 6-2-11, Article 3, Sec. 6-3-11, Sec. 6-3-12, and to repeal Sec. 6-1-3, Sec. 6-1-4, Sec. 6-1-5, Sec. 6-2-5, of Chapter 6 of the Mandan Code of Ordinances
Relating to Animals

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

ARTICLE 1. – IN GENERAL

Sec. 6-1-1. – Definitions.

Animal control officer: any person employed or appointed by the City who is authorized to investigate and enforce violations relating to animal control or cruelty under the provisions of this Ordinance.

At large: a domestic animal that is not on its owner's property and not leashed

Domestic animal: an animal of a tamed species commonly kept as pets and includes livestock.

Impoundment: seizing and confining a domestic animal by any animal control officer under the provisions of this Ordinance.

Owner: a person who (a) has a right of property or custody of a domestic animal provided that the right is not merely temporary, (b) keeps or harbors a domestic animal other than temporarily, (c) knowingly permits a domestic animal to remain indefinitely on or about any premises occupied by that person. (d) a domestic animal customarily returns daily for a period of 7 days to a place and are given food or shelter, the occupiers of that place shall be deemed to be owners.

Provocation: any action or activity, whether intentional or unintentional, which would be reasonably expected to cause a normal dog in similar circumstances to react in a manner similar to that shown by the evidence.

Vicious dog: without provocation, bites or attacks human beings or other animals, either on public or private property, or, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon a street, sidewalk, or any public ground or place.

NOTES: Definitions were updated to current terminology (example: animal control vs pound master). Definitions were all grouped in one section as opposed to being spread out in the ordinance. The current definition of animal control officer would also apply to police officers as they at times handle animal related calls.

Sec. 6-1-2. Impoundment Authorized.

It shall be the duty of any Animal Control Officer to take and impound any animal declared to be a nuisance or in violation of any of the provisions of this chapter.

Sec. 6-1-3. – Running at Large Prohibited. REPEALED.

Sec. 6-1-4. – Destruction of Property Prohibited. REPEALED.

Sec. 6-1-5. – Trespassing Prohibited. REPEALED.

NOTES: These sections have been updated in other sections.

Sec. 6-1-6. - Possession of animals restricted

It is unlawful and is declared a nuisance for any person to keep, own, possess or have under his control any poultry within the city limits, with the exception of commercial poultry hatcheries as otherwise allowed by law, or to keep within the platted portion of the city any swine, poultry, rabbits, cows or horses.

(Code 1979, § 13-01-05; Code 1994, § 16-01-05; Ord. No. 664, § 1, 1983)

NOTES: Any section in blue is current ordinance and has not been changed.

Sec. 6-1-7. - Cruelty to animals prohibited.

It is unlawful for any person to overwork, torture, cruelly beat, mutilate or needlessly kill, or carry or transport in any vehicle or conveyance in a cruel and inhumane manner, any dog, cat or other animal or cause these acts to be done.

(Code 1979, § 13-01-06; Code 1994, § 16-01-06; Ord. No. 664, § 1, 1983)

Sec. 6-1-8. - Cruel abandonment prohibited.

It is unlawful for any person to abandon any dog, cat or other animal or cause such act to be done.

(Code 1979, § 13-01-07; Code 1994, § 16-01-07; Ord. No. 664, § 1, 1983)

State Law reference— Cruelty to animals, N.D.C.C. § 36-21.2-03.

Sec. 6-1-9. - Food and shelter.

No person shall fail to provide any dog, cat or other animal in his charge or custody with necessary maintenance, drink and protection from the elements or cause any of these acts to be done.

(Code 1979, § 13-01-08; Code 1994, § 16-01-08; Ord. No. 664, § 1, 1983)

Sec. 6-1-10. - Fight upon exhibition.

It is unlawful for any person to maintain any place where fowls, dogs or other animals are suffered to fight upon exhibition or for sport upon any wager.

(Code 1979, § 13-01-09; Code 1994, § 16-01-09; Ord. No. 664, § 1, 1983)

Sec. 6-1-11. - Poisoning of dogs or cats prohibited.

It is unlawful for any person to poison any dog or cat or distribute poison in any manner whatsoever for the intent, or for the purpose, of poisoning any dog or cat.

(Code 1979, § 13-01-10; Code 1994, § 16-01-10; Ord. No. 664, § 1, 1983)

Sec. 6-1-12. - Killing birds.

It is unlawful for any person to willfully frighten, shoot at, wound, kill, capture, ensnare, net, trap or in any manner molest or injure any robin, lark, whippoorwill, finch, sparrow, thrush, wren, martin, swallow, snowbird, bobolink, red-winged blackbird, oriole, kingbird, mockingbird, song sparrow, or other songbird or insectivorous bird, or in any manner to molest or injure the nest eggs or young of any such bird, or to have in possession the nest eggs, young or body of such bird.

(Code 1979, § 13-01-111; Code 1994, § 16-01-11; Ord. No. 664, § 1, 1983)

ARTICLE 2. – DOGS AND CATS

Sec. 6-2-1. – Restricted Activities.

It is unlawful and is declared a nuisance for any person to allow any dog or cat owned by him or under his control for that animal to ~~by loud and frequent yelping, barking or howling, to annoy any reasonable person.~~

- (a) Damages or defecates on private property other than private property owned or occupied by the animal's owner, or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the person in charge of the dog or cat;
- (b) Causes a disturbance by loud and frequent yelping, barking, howling, or yowling to annoy any reasonable person.
- (c) Chases vehicles, or molests, threatens, or interferes with persons or other animals while the latter are on public property, irrespective of whether the dog or cat is on private or public property.

NOTES: Various nuisance related behaviors/activities are grouped into one section.

Sec. 6-2-2. - Restraint, Running at Large Prohibited; Dogs to be Leashed Required.

It is unlawful and is declared a nuisance for any person to permit or allow any dog of which he is the owner or keeper to run at large within the city, or for the dog to be free of restraint except within the dog park. ~~Any person who violates this section is guilty of an infraction.~~

- (a) A dog shall be considered under restraint if it is (a) within the real property limits of its owner and securely confined thereon by a physical fence; or (b) secured by a tether which does not allow the dog to reach within the property of another person, a public walkway or a road (c) secured by a leash or lead no more than 6 feet in length being held by a person capable of controlling that dog. A dog that frees itself from its owner's real property limits, from a leash, tether or lead, or a dog that is in a vehicle in a manner that would not prevent escape or contact with other persons or animals shall be considered as not being under restraint.
- (b) A dog shall be deemed running at large when off or away from the premises of the owner, possessor, keeper, or member of his immediate family and not under control, either by leash, cord or chain of not more than ~~12~~ 6 feet in length.
- (c) Any dog conveyed in an open compartment of any vehicle must be controlled either by being confined in a kennel or by a leash, cord or chain of a length which prevents the animal from reaching the walls or edge of the open compartment. ~~Dogs conveyed within the passenger compartment of any vehicle need not be controlled.~~
- (d) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (e) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

NOTES: This section has been changed to put additional and/or more restrictive provisions on the "leash" law. For example a section is added which requires the person holding the leash to be able to physically control the dog. It also changes the allowed length of a leash. Prior ordinance allows for up to a 12 foot leash. This new ordinance changes that to a 6 foot leash. A distance of 12 feet could allow a dog to make contact with a person or animal before the person controlling the dog had time to react. A leash of no more than 6 feet allows much greater control of the dog.

Another change is to allow for the citing of a violator. Current ordinance does not allow for a citation to be issued. This means an affidavit detailing what took place must be written. The affidavit is then forwarded to the city prosecutor. He next drafts a formal complaint charging the person with the violation. The complaint then goes to the municipal judge for approval. If approved the violator is sent a court notice or served with papers requiring them to appear in court. This as you can see is a long process. With a citation, the officer fills out the citation and gives it to the violator. They may then pay the fine by mailing in or going to the municipal court office. If they wish to dispute the citation they can ask for a trial before the municipal judge. This is the same procedure that would be used for a speeding citation. Very easy and not time consuming.

Sec. 6-2-3. - Destruction of property prohibited.

It is unlawful for any person to allow any dog or cat owned by him or under his control to destroy any property that is not the property of the owner or keeper. Any person who violates this section shall be guilty of an infraction.

(Code 1979, § 13-02-09; Code 1994, § 16-03-03; Ord. No. 664, § 1, 1983)

Sec. 6-2-4. - Trespassing prohibited

It is unlawful and is declared a nuisance for any person to allow or permit any cat owned by him or under his control to trespass upon the private property of any other person within the limits of the city. ~~Any person who violates this section shall be guilty of an infraction.~~

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

NOTES: Updated to allow for a citation to be issued.

(Code 1979, § 13-02-10; Code 1994, § 16-03-04; Ord. No. 664, § 1, 1983)

Sec. 6-2-5. - Vicious dogs.

- (a) No person shall own, keep, possess or harbor a vicious dog within the city. ~~For the purposes of this section, the term "vicious dog" is defined and declared to be a~~

~~dog that, without provocation, bites or attacks human beings or other animals, either on public or private property, or, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon a street, sidewalk, or any public ground or place.~~

- (b) Whenever a complaint under oath is made to the effect that any person is in violation of this section, the municipal judge shall set a time and place for the hearing of such complaint, notice of which shall be given the owner or possessor of such dog not less than 24 hours before such hearing, in writing, served in the same manner as a summons. Should the municipal judge determine at the time of the filing of such complaint that such dog is dangerous to the public, he may require the ~~poundmaster~~ animal control officer to immediately ~~take up and~~ impound such dog pending the hearing on the complaint. At the time of the hearing of such complaint, all interested persons shall be entitled to testify.
- (c) In the event that any person is found to be in violation of this section, the municipal judge shall issue an order requiring said owner or possessor of such vicious dog to either ~~destroy~~ euthanize or remove the dog permanently from the city within 24 hours. In the event such dog is not ~~destroyed~~ euthanized or removed within such time, the ~~poundmaster~~ animal control officer of the city shall be authorized to ~~take up and~~ immediately impound and destroy euthanize such dog, ~~for which he shall be paid by the owner the fee provided for killing dogs not licensed.~~ The owner of a vicious dog shall be liable for and shall pay all costs associated with impoundment, removal, euthanasia or other associated costs incurred.
- (d) Should a dog which has been impounded pending the hearing on said complaint be ordered ~~destroyed~~ euthanized or removed from the city subsequent to said hearing, the owner or possessor of such dog wishing to remove it from the city shall, within 24 hours after the issuance of such order, pay ~~the poundmaster the regular pound fees for taking up and keeping such dog,~~ all costs associated with impoundment and shall thereupon immediately remove said dog from the city. Any dog which shall be removed from the city under the provisions of this article and thereafter be brought back into the city, shall immediately be ~~taken up by the poundmaster and destroyed.~~ impounded by the animal control officer and euthanized.
- (e) Should the municipal judge determine that the owner or possessor of an alleged vicious dog is not in violation of this section, said dog shall be returned to the owner or possessor by the animal control officer immediately and the fees for impounding and keeping said dog shall be paid by the city.
- (f) Any dog taken and impounded under the provisions of this article because of

having bitten any person shall be ~~held in the pound~~ impounded for ten days before the final disposition is made of such dog under the provisions of this article. In the event a vicious dog cannot be taken up and caught by the ~~poundmaster or any police officer~~ animal control officer without such ~~poundmaster or police officer~~ animal control officer exposing himself to danger or personal injury from such dog, or without exposing other persons to danger or personal injury from such dog, it shall be lawful for ~~the poundmaster or any police officer~~ to forthwith destroy such dog.

(Code 1979, § 13-02-11; Code 1994, § 16-03-05; Ord. No. 664, § 1, 1983)

NOTES: The wording in this section was updated to reflect current terminology. There were changes made to the owner's responsibility for costs incurred. The substance of the ordinance was not changed. Officers have been using this ordinance with good success for years. Our current ordinance allows impound and then a timely review by the municipal judge. It has allowed us to have vicious dogs euthanized and/or removed from the city. We at the Police Department do not believe this section needed drastic change. We believe that what works should be left as is. This offense is a Class B Misdemeanor which is the highest level charge in Municipal Court.

Sec. 6-2-6. - Number of dogs and cats restricted.

No person shall keep or maintain more than three dogs and three cats, six months of age or older, on any premises lying within the platted portions of the city or within 200 yards of any platted portion of the city.

(Code 1979, § 13-02-12; Code 1994, § 16-03-06; Ord. No. 664, § 1, 1983)

Sec. 6-2-7. – License Required.

It is unlawful for any person within the city to keep, maintain or have in his custody or under his control any dog or cat over the age of six months which is not ~~licensed or inoculated against rabies; identified at all times by a microchip or tag that states, at a minimum, the name and address and phone number of the owner.~~ Dogs and cats must be inoculated against rabies. A license issued under this article is valid for the duration of the rabies vaccination under which it is obtained and shall expire on the date when the last rabies vaccination of the dog or cat expires. The license must be renewed for so long as the cat or dog is kept within the city by payment of the fee established in this article.

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the

time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

NOTES: Allows citations to be issued. Requires a tag and updates some wording.

Sec. 6-2-8. - Rabies vaccination prerequisite.

No dog or cat license shall be issued under the provisions of this article unless the applicant or owner produces a certificate of vaccination from a duly licensed veterinarian showing that the dog or cat for which the license is desired has been vaccinated against rabies. A license issued under this article may not exceed the duration of the rabies vaccination. An owner or caretaker shall have his dog or cat vaccinated by a duly licensed veterinarian, who shall issue him a metal shield or tag having in figures the year for which the shield or tag is issued, which shall immediately be affixed to and kept upon such animal for which it shall have been issued.

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with A noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

NOTES: Allows a citation to be issued.

(Code 1979, § 13-02-02; Code 1994, § 16-02-02; Ord. No. 664, § 1, 1983; Ord. No. 903, § 1, 9-21-1999)

State Law reference— Rabies control, N.D.C.C. ch. 23-36.

Sec. 6-2-9. - License fee.

Every owner or keeper of a dog or cat shall pay therefore to the city for the use of the city, for each dog and cat, a fee in such amount as may be established from time to time by resolution of the board of city commissioners.

(Code 1979, § 13-02-03; Code 1994, § 16-02-03; Ord. No. 664, § 1, 1983)

Sec. 6-2-10. – Issuance of Tags.

It shall be the duty of the Animal Control Officer, at the time of the issuance of a license under this article, to furnish and deliver to the applicant for such license a tag for each dog and cat for which such license is issued, upon which tag shall be stamped or engraved the number of said license.

Sec. 6-2-11. – Tag Attachment.

It shall be the duty of the owner of the dog or cat licensed under this article to place around the neck of such animal a collar or on a harness, on which shall be securely fastened the tag furnished by the Animal Control officer.

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

NOTES: These two sections require animal control to issue a tag and for the tag to be attached. Also allows for a citation to be issued. We currently issue a tag but there is no requirement to have the tag attached. Tags enable us to identify owners when animals are impounded.

Sec. 6-2-12. – Transfer

No tag shall be transferable from one dog or cat to another.

Sec. 6-2-13. - Waste.

(a) Pet waste that is on the pet owner's property must not be allowed to accumulate to the extent that odors generated from the waste migrate off the property. Pet waste shall not be allowed to remain in an unenclosed front yard where it can be encountered by delivery workers or neighborhood residents. The code enforcement officer or any other authorized agent of the city may issue a citation to a pet owner who fails to clean up pet waste on the pet owner's property after being notified by the city that a complaint has been received regarding the pet waste.

(b) Waste from dogs, cats and other pets that is deposited beyond the boundaries of the pet owner's property must be immediately removed. The code enforcement officer or any other authorized agent of the city may issue a citation to a pet owner who fails to immediately clean up after a pet when the pet deposits solid waste on public property or private property not owned, rented, leased or managed by the pet owner.

(c) ~~Citations issued for~~ Violations of this section are infractions.
(Ord. No. 1228, 1-5-2016)

Sec. 6-3-11. Conflicting Ordinances.

All other ordinances of the City of Mandan that conflict with this Ordinance are hereby repealed to the extent of such conflict.

Sec. 6-3-12. Severability.

The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the validity of any part.

NOTES: These last two sections were added by the City Attorney.

By: _____
Tim Helbling, President,
Board of City Commissioners

Attest:

James Neubauer, City Administrator

First Consideration: _____

Second Consideration and Final Passage: _____

Publication: _____

ORDINANCE NO. 1307

An Ordinance to Amend and Re-enact

Article 1, Sec. 6-1-1, Sec. 6-1-2; Article 2, Sec. 6-2-1, Sec. 6-2-2, Sec. 6-2-4, Sec. 6-2-5, Sec. 6-2-7, Sec. 6-2-8, Sec. 6-2-10, Sec. 6-2-11, Article 3, Sec. 6-3-11, Sec. 6-3-12, and to repeal Sec. 6-1-3, Sec. 6-1-4, Sec. 6-1-5, Sec. 6-2-5, of Chapter 6 of the Mandan Code of Ordinances
Relating to Animals

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

ARTICLE 1. – IN GENERAL

Sec. 6-1-1. – Definitions.

Animal control officer: any person employed or appointed by the City who is authorized to investigate and enforce violations relating to animal control or cruelty under the provisions of this Ordinance.

At large: a domestic animal that is not on its owner's property and not leashed

Domestic animal: an animal of a tamed species commonly kept as pets and includes livestock.

Impoundment: seizing and confining a domestic animal by any animal control officer under the provisions of this Ordinance.

Owner: a person who (a) has a right of property or custody of a domestic animal provided that the right is not merely temporary, (b) keeps or harbors a domestic animal other than temporarily, (c) knowingly permits a domestic animal to remain indefinitely on or about any premises occupied by that person. (d) a domestic animal customarily returns daily for a period of 7 days to a place and are given food or shelter, the occupiers of that place shall be deemed to be owners.

Provocation: any action or activity, whether intentional or unintentional, which would be reasonably expected to cause a normal dog in similar circumstances to react in a manner similar to that shown by the evidence.

Vicious dog: without provocation, bites or attacks human beings or other animals, either on public or private property, or, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon a street, sidewalk, or any public ground or place.

Sec. 6-1-2. Impoundment Authorized.

It shall be the duty of any Animal Control Officer to take and impound any animal declared to be a nuisance or in violation of any of the provisions of this chapter.

Sec. 6-1-3. – Running at Large Prohibited. REPEALED.

Sec. 6-1-4. – Destruction of Property Prohibited. REPEALED.

Sec. 6-1-5. – Trespassing Prohibited. REPEALED.

Sec. 6-1-6. - Possession of animals restricted

It is unlawful and is declared a nuisance for any person to keep, own, possess or have under his control any poultry within the city limits, with the exception of commercial poultry hatcheries as otherwise allowed by law, or to keep within the platted portion of the city any swine, poultry, rabbits, cows or horses.

(Code 1979, § 13-01-05; Code 1994, § 16-01-05; Ord. No. 664, § 1, 1983)

Sec. 6-1-7. - Cruelty to animals prohibited.

It is unlawful for any person to overwork, torture, cruelly beat, mutilate or needlessly kill, or carry or transport in any vehicle or conveyance in a cruel and inhumane manner, any dog, cat or other animal or cause these acts to be done.

(Code 1979, § 13-01-06; Code 1994, § 16-01-06; Ord. No. 664, § 1, 1983)

Sec. 6-1-8. - Cruel abandonment prohibited.

It is unlawful for any person to abandon any dog, cat or other animal or cause such act to be done.

(Code 1979, § 13-01-07; Code 1994, § 16-01-07; Ord. No. 664, § 1, 1983)

State Law reference— Cruelty to animals, N.D.C.C. § 36-21.2-03.

Sec. 6-1-9. - Food and shelter.

No person shall fail to provide any dog, cat or other animal in his charge or custody with necessary maintenance, drink and protection from the elements or cause any of these acts to be done.

(Code 1979, § 13-01-08; Code 1994, § 16-01-08; Ord. No. 664, § 1, 1983)

Sec. 6-1-10. - Fight upon exhibition.

It is unlawful for any person to maintain any place where fowls, dogs or other animals are suffered to fight upon exhibition or for sport upon any wager.

(Code 1979, § 13-01-09; Code 1994, § 16-01-09; Ord. No. 664, § 1, 1983)

Sec. 6-1-11. - Poisoning of dogs or cats prohibited.

It is unlawful for any person to poison any dog or cat or distribute poison in any manner whatsoever for the intent, or for the purpose, of poisoning any dog or cat.

(Code 1979, § 13-01-10; Code 1994, § 16-01-10; Ord. No. 664, § 1, 1983)

Sec. 6-1-12. - Killing birds.

It is unlawful for any person to willfully frighten, shoot at, wound, kill, capture, ensnare, net, trap or in any manner molest or injure any robin, lark, whippoorwill, finch, sparrow, thrush, wren, martin, swallow, snowbird, bobolink, red-winged blackbird, oriole, kingbird, mockingbird, song sparrow, or other songbird or insectivorous bird, or in any manner to molest or injure the nest eggs or young of any such bird, or to have in possession the nest eggs, young or body of such bird. (Code 1979, § 13-01-111; Code 1994, § 16-01-11; Ord. No. 664, § 1, 1983)

ARTICLE 2. – DOGS AND CATS

Sec. 6-2-1. – Restricted Activities.

It is unlawful and is declared a nuisance for any person to allow any dog or cat owned by him or under his control ~~for that animal to by loud and frequent yelping, barking or howling, to annoy any reasonable person.~~

- (a) Damages or defecates on private property other than private property owned or occupied by the animal's owner, or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the person in charge of the dog or cat;
- (b) Causes a disturbance by loud and frequent yelping, barking, howling, or yowling to annoy any reasonable person.
- (c) Chases vehicles, or molests, threatens, or interferes with persons or other animals while the latter are on public property, irrespective of whether the dog or cat is on private or public property.

Sec. 6-2-2. - Restraint, Running at Large Prohibited; Dogs to be Leashed Required.

It is unlawful and is declared a nuisance for any person to permit or allow any dog of which he is the owner or keeper to run at large within the city, or for the dog to be free of restraint except within the dog park. ~~Any person who violates this section is guilty of an infraction.~~

- (a) A dog shall be considered under restraint if it is (a) within the real property limits of its owner and securely confined thereon by a physical fence; or (b) secured by a tether which does not allow the dog to reach within the property of another person, a public walkway or a road (c) secured by a leash or lead no more than 6 feet in length being held by a person capable of controlling that dog. A dog that frees itself from its owner's real property limits, from a leash, tether or lead, or a dog that is in a vehicle in a manner that would not prevent escape or contact with other persons or animals shall be considered as not being under restraint.

- (b) A dog shall be deemed running at large when off or away from the premises of the owner, possessor, keeper, or member of his immediate family and not under control, either by leash, cord or chain of not more than ~~12~~ 6 feet in length.
- (c) Any dog conveyed in an open compartment of any vehicle must be controlled either by being confined in a kennel or by a leash, cord or chain of a length which prevents the animal from reaching the walls or edge of the open compartment. ~~Dogs conveyed within the passenger compartment of any vehicle need not be controlled.~~
- (d) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (e) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

Sec. 6-2-3. - Destruction of property prohibited.

It is unlawful for any person to allow any dog or cat owned by him or under his control to destroy any property that is not the property of the owner or keeper. Any person who violates this section shall be guilty of an infraction.

(Code 1979, § 13-02-09; Code 1994, § 16-03-03; Ord. No. 664, § 1, 1983)

Sec. 6-2-4. - Trespassing prohibited

It is unlawful and is declared a nuisance for any person to allow or permit any cat owned by him or under his control to trespass upon the private property of any other person within the limits of the city. ~~Any person who violates this section shall be guilty of an infraction.~~

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to

appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

(Code 1979, § 13-02-10; Code 1994, § 16-03-04; Ord. No. 664, § 1, 1983)

Sec. 6-2-5. - Vicious dogs.

- (a) No person shall own, keep, possess or harbor a vicious dog within the city. ~~For the purposes of this section, the term "vicious dog" is defined and declared to be a dog that, without provocation, bites or attacks human beings or other animals, either on public or private property, or, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon a street, sidewalk, or any public ground or place.~~
- (b) Whenever a complaint under oath is made to the effect that any person is in violation of this section, the municipal judge shall set a time and place for the hearing of such complaint, notice of which shall be given the owner or possessor of such dog not less than 24 hours before such hearing, in writing, served in the same manner as a summons. Should the municipal judge determine at the time of the filing of such complaint that such dog is dangerous to the public, he may require the ~~poundmaster~~ animal control officer to immediately ~~take up and~~ impound such dog pending the hearing on the complaint. At the time of the hearing of such complaint, all interested persons shall be entitled to testify.
- (c) In the event that any person is found to be in violation of this section, the municipal judge shall issue an order requiring said owner or possessor of such vicious dog to either ~~destroy~~ euthanize or remove the dog permanently from the city within 24 hours. In the event such dog is not ~~destroyed~~ euthanized or removed within such time, the ~~poundmaster~~ animal control officer of the city shall be authorized to ~~take up and~~ immediately impound and ~~destroy~~ euthanize such dog, ~~for which he shall be paid by the owner the fee provided for killing dogs not licensed.~~ The owner of a vicious dog shall be liable for and shall pay all costs associated with impoundment, removal, euthanasia or other associated costs incurred.
- (d) Should a dog which has been impounded pending the hearing on said complaint be ordered ~~destroyed~~ euthanized or removed from the city subsequent to said hearing, the owner or possessor of such dog wishing to remove it from the city shall, within 24 hours after the issuance of such order, pay ~~the poundmaster the regular pound fees for taking up and keeping such dog,~~ all costs associated with impoundment and shall thereupon immediately remove said dog from the city. Any dog which shall be removed from the city under the provisions of this article and thereafter be brought back into the city, shall immediately be ~~taken up~~

~~by the poundmaster and destroyed.~~ impounded by the animal control officer and euthanized.

- (e) Should the municipal judge determine that the owner or possessor of an alleged vicious dog is not in violation of this section, said dog shall be returned to the owner or possessor by the animal control officer immediately and the fees for impounding and keeping said dog shall be paid by the city.
- (f) Any dog taken and impounded under the provisions of this article because of having bitten any person shall be ~~held in the pound~~ impounded for ten days before the final disposition is made of such dog under the provisions of this article. In the event a vicious dog cannot be taken up and caught by the ~~poundmaster or any police officer~~ animal control officer without such ~~poundmaster or police officer~~ animal control officer exposing himself to danger or personal injury from such dog, or without exposing other persons to danger or personal injury from such dog, it shall be lawful for the ~~poundmaster or any police officer~~ to forthwith destroy such dog.

(Code 1979, § 13-02-11; Code 1994, § 16-03-05; Ord. No. 664, § 1, 1983)

Sec. 6-2-6. - Number of dogs and cats restricted.

No person shall keep or maintain more than three dogs and three cats, six months of age or older, on any premises lying within the platted portions of the city or within 200 yards of any platted portion of the city.

(Code 1979, § 13-02-12; Code 1994, § 16-03-06; Ord. No. 664, § 1, 1983)

Sec. 6-2-7. – License Required.

It is unlawful for any person within the city to keep, maintain or have in his custody or under his control any dog or cat over the age of six months which is not ~~licensed or inoculated against rabies.~~ identified at all times by a microchip or tag that states, at a minimum, the name and address and phone number of the owner. Dogs and cats must be inoculated against rabies. A license issued under this article is valid for the duration of the rabies vaccination under which it is obtained and shall expire on the date when the last rabies vaccination of the dog or cat expires. The license must be renewed for so long as the cat or dog is kept within the city by payment of the fee established in this article.

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the

time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

Sec. 6-2-8. - Rabies vaccination prerequisite.

No dog or cat license shall be issued under the provisions of this article unless the applicant or owner produces a certificate of vaccination from a duly licensed veterinarian showing that the dog or cat for which the license is desired has been vaccinated against rabies. A license issued under this article may not exceed the duration of the rabies vaccination. An owner or caretaker shall have his dog or cat vaccinated by a duly licensed veterinarian, who shall issue him a metal shield or tag having in figures the year for which the shield or tag is issued, which shall immediately be affixed to and kept upon such animal for which it shall have been issued.

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with A noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

(Code 1979, § 13-02-02; Code 1994, § 16-02-02; Ord. No. 664, § 1, 1983; Ord. No. 903, § 1, 9-21-1999)

State Law reference— Rabies control, N.D.C.C. ch. 23-36.

Sec. 6-2-9. - License fee.

Every owner or keeper of a dog or cat shall pay therefore to the city for the use of the city, for each dog and cat, a fee in such amount as may be established from time to time by resolution of the board of city commissioners.

(Code 1979, § 13-02-03; Code 1994, § 16-02-03; Ord. No. 664, § 1, 1983)

Sec. 6-2-10. – Issuance of Tags.

It shall be the duty of the Animal Control Officer, at the time of the issuance of a license under this article, to furnish and deliver to the applicant for such license a tag for each dog and cat for which such license is issued, upon which tag shall be stamped or engraved the number of said license.

Sec. 6-2-11. – Tag Attachment.

It shall be the duty of the owner of the dog or cat licensed under this article to place around the neck of such animal a collar or on a harness, on which shall be securely fastened the tag furnished by the Animal Control officer.

- (a) Enforcement of this section may be by citation issued by the City Animal Control Officer carrying a fine of \$20.00.
- (b) Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

Sec. 6-2-12. – Transfer

No tag shall be transferable from one dog or cat to another.

Sec. 6-2-13. - Waste.

(a) Pet waste that is on the pet owner's property must not be allowed to accumulate to the extent that odors generated from the waste migrate off the property. Pet waste shall not be allowed to remain in an unenclosed front yard where it can be encountered by delivery workers or neighborhood residents. The code enforcement officer or any other authorized agent of the city may issue a citation to a pet owner who fails to clean up pet waste on the pet owner's property after being notified by the city that a complaint has been received regarding the pet waste.

(b) Waste from dogs, cats and other pets that is deposited beyond the boundaries of the pet owner's property must be immediately removed. The code enforcement officer or any other authorized agent of the city may issue a citation to a pet owner who fails to immediately clean up after a pet when the pet deposits solid waste on public property or private property not owned, rented, leased or managed by the pet owner.

(c) ~~Citations issued for~~ Violations of this section are infractions.
(Ord. No. 1228, 1-5-2016)

Sec. 6-3-11. Conflicting Ordinances.

All other ordinances of the City of Mandan that conflict with this Ordinance are hereby repealed to the extent of such conflict.

Sec. 6-3-12. Severability.

The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the validity of any part.

By: _____

Tim Helbling, President,
Board of City Commissioners

Attest:

James Neubauer, City Administrator

First Consideration: March 5, 2019

Second Consideration and Final Passage: March 19, 2019

Publication: _____



Res. and Ord. No. 2

Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: February 27, 2019
SUBMITTING DEPARTMENT: Engineering and Planning
DEPARTMENT DIRECTOR: Justin Froseth, PE
PRESENTER: John Van Dyke, AICP, CFM,
SUBJECT: Second Consideration of Ordinance 1301 Related to Changes to R3.2 Residential District

STATEMENT/PURPOSE: Consider approval of second consideration of Ordinance 1301 related to changes to the R3.2 Residential District.

BACKGROUND/ALTERNATIVES: Changes to residential districts were carried out in 2016. These changes included limiting the number of single-family residences to 10% of the total number of lots within a subdivision in the R3.2 Residential District; all other residences within this district are required to be twin home construction. Areas, such as Macedonia Hills, were platted prior to the 2016 ordinance change with the intent to allow a combination of single-family and twin home construction. Multiple inquiries from lot owners and real estate agents over the past few months brought attention to this particular restriction in the R3.2 Residential district. Inquirers expressed surprise and anger with the inability to construct single-family residences on certain lots.

In discussion with staff, the ability of the city to administer the 10% limitation with the current permit tracking software is very difficult and likely to result in an inadvertent issuance of a permit for a non-conforming structure.

The proposed changes remove the 10% clause, add a definition of a twin home, and clarify side setbacks for both twin homes and single-family dwellings.

The Planning and Zoning Commission unanimously voted to recommend approval of Ordinance 1301 as presented in Exhibit 1 at the January 2019 meeting.

City Commission voted unanimously at the February 19, 2019 meeting to approve the ordinance as presented in Exhibit 1.

ATTACHMENTS:

Board of City Commissioners

Agenda Documentation

Meeting Date: March 5, 2019

Subject: Second Consideration of Ordinance 1301 related to Changes to the R3.2

Residential District

Page 2 of 2

Exhibit 1 – Ordinance #1301 – R3.2 Residential District Changes

FISCAL IMPACT: N/a

STAFF IMPACT: N/a

LEGAL REVIEW: This document has been sent to Attorney Brown for his review.

RECOMMENDATION: The Engineering and Planning Department and Planning and Zoning Commission recommend approval of Ordinance 1301 as presented in Exhibit 1.

SUGGESTED MOTION: I move to approve Ordinance 1301 as presented in Exhibit 1.

EXHIBIT 1 - Draft Ordinance

ORDINANCE NO. 1301

An Ordinance to Amend and Re-enact portions of Sec. 105-3-7 and Sec. 101-1-3 related to the R3.2 Residential District.

WHEREAS, There exists difficulty with effectively administering the 10 percent limitation as currently outlined in the R3.2 Residential District.

WHEREAS, Everything else equal, each property within the same base zone should enjoy identical rights.

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

Section 15. Amended and Re-enacted. Section 101-1-3 amending the definition of Twin home to read as follows:

~~*Twin home.*~~ *See two-family dwelling. means two single-family dwellings in a zero side yard setback configuration resulting in a structure containing two dwelling units bisected by the side property line.*

Section 2. Amended and Re-enacted. Section 105-3-7 amending standards in the R3.2 Residential District as follows:

Sec. 105-3-7. - R3.2 Residential District.

- (a) *General description.* The purpose of this district is to provide an opportunity to construct single-family dwelling units on reduced size lots in the form of a single-family dwelling or twin home. in a zero side yard setback configuration resulting in structures containing two dwelling units commonly called twin homes that straddle a lot line.
- (b) *Primary uses.* The following uses are permitted:
- (1) ~~Zero side yard setback single family dwelling unit in a structure with two dwelling units located on two adjacent lots~~ Twin home.
 - (2) ~~Structures with one s~~Single-family dwelling_ ~~unit located on no more than ten percent of the lots in the subdivision.~~
 - a.—~~The minimum side yard setback for lots where the adjacent lot is undeveloped shall be five feet.~~
 - b.—~~For lots where the adjacent lot has been developed, the new principal structure must have a sufficient side yard setback to be at least ten feet from the principal structure on the adjacent lot.~~

~~e. The minimum setback shall result in the roof overhang being at least one foot back from the property line.~~

- (c) *Secondary uses.* A group dwelling for six or fewer individuals with developmental disabilities as defined in NDCC 25-16-14 is a permitted secondary use. This use requires one additional on-site mobility impaired parking space.
- (d) *Conditional uses.* These uses are permitted on a specific site only after review and approval by the planning and zoning commission and ratification by the city commission. ~~A PUD district will be created to document any conditional use approval.~~
- (1) Public recreation group.
 - (2) Education group.
 - (3) Utility service group.
 - (4) Religion group.
- (e) *Setbacks.*
- (1) Lots fronting on an arterial or collector street as designated on road network maps produced by the metropolitan planning organization are discouraged. If lots must front on roads with these designations, the front yard setback is increased.
 - a. The minimum front yard setback for an arterial roadway is 50 feet.
 - b. The minimum front yard setback for a collector street is 25 feet.
 - c. The minimum front yard setback for a local street is eight feet.
 - d. The required front yard setback for each lot shall be determined during the platting process and shall be documented in a development agreement that is signed and recorded.
 - (2) For a side yard that fronts on a public right-of-way, the minimum setback is the same as the front yard. For all other situations the minimum side yard setback is five feet. The side yard setback shall apply to both sides for a single-family dwelling and one side for a twin home.
 - (3) The minimum rear yard setback is 20 feet.
 - (4) Any portion of a structure containing a garage door facing a public street, alley or private access easement must be set back at least 25 feet.
- (f) *Lot coverage.* The perimeter of the ground or first floor of each structure shall be used when computing lot coverage. Lot coverage for all structures shall not exceed 50 percent of the square foot area of the lot. For water lots the computation shall be made using the portion of the lot that is above the shore line.
- (g) *Lot area.* The minimum lot area shall be 3,200 square feet.
- (h) *Lot frontage.* Each lot shall have a minimum of 20 feet of frontage along a public street or private access easement configured in conformance with fire code emergency access standards.

- (i) *Building height limits.* Principal building height shall be limited to three stories. Accessory buildings shall be limited to two stories.
- (j) *Parking.* At least two parking spaces shall be provided per lot. This includes garage spaces and exterior spaces measuring at least 25 feet long.

(Ord. No. 1242, § 5, 12-20-2016)

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

Timothy A. Helbling, President
Board of City Commissioners

Attest:

James Neubauer,
City Administrator

Planning and Zoning:
First Consideration:
Second Consideration and Final Passage:

January 28, 2019
February 19, 2019
March 5, 2019



Res. and Ord. No. 3

Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: February 27, 2019
SUBMITTING DEPARTMENT: Engineering and Planning
DEPARTMENT DIRECTOR: Justin Froseth, PE
PRESENTER: John Van Dyke, AICP, CFM, Principal Planner
SUBJECT: Second Consideration of Ordinance 1291 Related to Sales of Fireworks and Fireworks Stands and Resolution Establishing Permit and Associated Fees

STATEMENT/PURPOSE: Consider approval of the second consideration of Ordinance 1291 related to the sales of fireworks and fireworks stands and resolution establishing permit and associated fees.

BACKGROUND/ALTERNATIVES: Fireworks sales around the City of Mandan have been contentious for both residents and retailers due in large part to the lack of specific regulation surrounding where retailers can conduct the sale of fireworks. Complaints have been received from the public regarding their location, traffic, or simple distaste for the activity itself being so close to residential areas. In contrast, the retailers are left with last-minute, often stressful situations in terms of identifying an appropriate location. This ordinance will firmly define where these stands are allowable and provide retailers the opportunity well in advance of the fireworks season to identify an appropriate location to conduct their business.

Staff met on a few occasions during and after the fireworks season to discuss this issue. Input was received from several departments including Fire and Building. Commissioner Rohr and Administrator Neubauer were also present for the discussion.

Follow-up with Natalie Pierce, Morton County Planning and Zoning Director, Malcolm Brown, City Attorney, and Lynn Gustin, Mandan Rural Fire Chief via Chief Nardello was conducted between late October and November 2018.

This ordinance incorporates all of the above input as well as the recommendations of the Planning and Zoning Commission to remove any setback distance from residences at the December 26, 2018 meeting.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 5, 2019

Subject: Second Consideration of Ordinance 1291 Related to Sales of Fireworks and Fireworks Stands and Resolution Establishing Permit and Associated Fees

Page 2 of 2

In summary:

The proposed ordinance amendment defines fireworks to align with North Dakota Century Code. It also defines fireworks stands, which includes specific requirements that must be met.

Fireworks stands would be allowed in Agricultural zones on property 20,000 sq. ft. (approx. ½ acre) or larger or where the Retail group A use group is allowed (CA/CB/CC Commercial and MA/MC Industrial Districts).

Fireworks stands would not be permissible within corporate limits; only permitted within the extra-territorial area.

Planning and Zoning unanimously voted to recommend approval of Ordinance 1291 as presented in Exhibit 1 at the January 2019 meeting.

City Commission unanimously voted to recommend approval of Ordinance 1291 at the February 19, 2019 meeting.

The fees as presented in Exhibit 6 are \$100 and will be good for one year from the date of issuance.

ATTACHMENTS:

Exhibit 1 – Ordinance 1291 – Fireworks and Fireworks Stands

Exhibit 2 – Summary of Items Discussed at November 26, 2018 Planning and Zoning Commission meeting

Exhibit 3 – Morton County Application for Firework Stands Temporary Use Permit

Exhibit 4 – City of Mandan Application for Firework Stands Temporary Use Permit

Exhibit 5 – Morton County Code – Use Table

Exhibit 6 – Resolution Establishing Fees

FISCAL IMPACT: Minimal

STAFF IMPACT: Minimal

LEGAL REVIEW: This document has been sent to Attorney Brown for his review.

RECOMMENDATION: The Engineering and Planning Department and Planning and Zoning Commission recommend approval of Ordinance 1291 as presented in Exhibit 1.

SUGGESTED MOTION: I move to approve Ordinance 1291 as presented in Exhibit 1.

EXHIBIT 1 - Proposed Ordinance

ORDINANCE NO. 1291

An Ordinance to Amend and Re-enact Sec. 101-1-3, 105-1-4 (c) (2), and Sec. 105-4-1 (2) a. and b. of the Mandan Municipal Code related to the sale of fireworks and placement of fireworks stands

WHEREAS, There has been confusion surrounding where sales of fireworks may occur

WHEREAS, Clarification is required to ensure the health and safety of nearby residents and patrons of such establishments

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

Section 1. Sec. 101-1-3 is added and reads:

Insert in Sec. 101-1-3 after the definition for Final plat the following:

Fireworks means any combustible or explosive composition, or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation. The term includes any blank cartridge, toy pistol, toy cannon, toy cane, or toy gun in which an explosive other than a toy paper cap is used; balloon that requires fire underneath to propel the balloon; firecracker, torpedo, skyrocket, Roman candle, daygo bomb, sparkler, or other item of like construction; item containing any explosive or flammable compound; or any tablet or other device containing any explosive substance. This section does not apply to any toy paper cap containing not more than twenty-five hundredths of a grain [16.20 milligrams] of explosive composition per cap.

Fireworks stand means the retail sales of fireworks. The following standards shall apply to all fireworks stands:

- a. Occurring outside corporate limits; and
- b. Being wholly contained within a trailer, tent, building or other structure, whether permanent or temporary; and
- c. Holding a fireworks sales permit as issued by the City of Mandan; and
- d. Holding a State Retailer License; and
- e. Having a minimum of 1,600 sq. ft. area dedicated for customer parking. Additional parking may be required at the discretion of the City Building Official; and
- f. Having a minimum 500 ft. setback from all flammable and hazardous material storage areas and structures (e.g. filling stations);

Section 2. Sec. 105-1-4 (c) (2) is amended to read:

(2) The following are examples of retail group A uses:

- a. Antiques, collectibles or recycled items;
- b. Appliances and electronics rental and sales;
- c. Art, hobby or craft supplies;
- d. Camera sales and service, photo supplies or photographic studio;
- e. Jewelry, clock and watch sales, cleaning and repair;
- f. Books and other printed materials, except those regulated under article 2, [chapter 12](#) and article 5, [chapter 105](#) of this Code;
- g. Recorded video or music for rental or sale, except those regulated under article 2, [chapter 12](#) and article 5, [chapter 105](#) of this Code;
- h. Musical instrument rental, sale and repair;
- i. Butcher shop, retail sales bakery, delicatessen, fast food, full service restaurant, coffee shop or other eat-in or take-out food preparation establishment;
- j. Ice cream, soda fountain or candy;
- k. Department store, variety store or specialty merchandise including sporting goods or exercise equipment;
- l. Drugstore;
- m. Flowers, gifts or greeting cards;
- n. Furniture and accessories including bedding, home furnishings and office equipment;
- o. Office supplies including copying or shipping services;
- p. Groceries and household items;
- q. Hardware, tools, equipment, supplies and accessories;
- r. Auto parts, supplies, accessories and outdoor activity supplies with no servicing or repair of vehicles;
- s. Package liquor; ~~and~~
- t. Pets and pet supplies with associated grooming and dog daycare services; ~~;~~
- u. Medical marijuana dispensary; and

v. Fireworks stand.

Section 3. Sec. 105-4-1 (2) a. and b. are amended to read:

(2) *Uses permitted.*

a. The following uses are permitted:

1. Single-family dwelling.
2. Church.
3. Education group.
4. Public recreation group.
5. Fire station.
6. Railroad line trackage.
7. General farming group, as defined in section 105-1-4.
8. Truck farming group, as defined in section 105-1-4.
9. Utility service group.
10. Airport.
11. Golf course.
12. Oil and gas well.
13. Radio or television transmitting station.
14. Sand or gravel extraction.
15. Sewage treatment plant.

16. Fireworks stand.

b. Provided, however, that on a record lot having an area of less than five acres, but not less than 20,000 square feet, corresponding to a record lot shown on a plat or deed recorded prior to the adoption of the ordinance from which this section is derived, any of the following uses are permitted:

1. Single-family dwelling.
2. Church.
3. Education group.
4. Public recreation group.
5. Fire station.
6. Railroad line trackage.
7. General farming group, as defined in section 105-1-4.
8. Truck farming group, as defined in section 105-1-4.
9. Utility service group.
10. Animal hospital.

11. Oil or gas well.

12. Fireworks stand.

Section 3. Sec. 101-1-3, 105-1-4 (c) (2), and Sec. 105-4-1 (2) a. and b. are amended and re-enacted.

Timothy A. Helbling, President
Board of City Commissioners

Attest:

James Neubauer,
City Administrator

First Consideration:

~~January-February 22~~ February 22, 2019

Second Consideration and Final Passage:

~~March~~ February 5, 2019

Exhibit 2 - Additional Information Obtained between October and November 2018

Update on Fireworks

Additional Information Requested/Questions Asked at Previous Meeting:

Enforcement Authority in the ETA?

Summary of AG opinion received by Attorney Brown:

The City of Mandan maintains enforcement jurisdiction related to zoning and subdivision portions of city code within ETA. Anything not included within the zoning/subdivision portion of the ordinance would be limited to 1/2 mile outside of city limits (nuisances such as accumulation of junk on display).

Rural Fire Opinion

E-mail from Chief Nardello surrounding discussion with Lynn Gustin, Mandan Rural Fire Chief:

I just wanted to touch base with you regarding the fireworks ordinance and a conversation that I had with Lynn Gustin, Mandan Rural Fire Chief.

Chief Gustin telephoned me on Tuesday, November 6, 2018, and asked what my thoughts were regarding the proposed fireworks ordinance. I explained to him that the ordinance would provide for better building and fire code compliance as well as inspections of the sales of fireworks. Chief Gustin felt that the ordinance would be an improvement rather than the current Morton County procedures and was in support of the ordinance.

Morton County Process and Comment

Industrial/Ag zone permissible with temporary use permit

Response from Natalie Pierce, Morton County Planning Director

I have reviewed the proposed Mandan Ordinance 1291 relating to fireworks and provide the following comments:

- 1) Based on the confusion surrounding permitting for fireworks stands in the ETA over the past three years, I think this ordinance is necessary in order to make application standards clear for stand operators.

- 2) I would recommend defining a fireworks stand. Then, separate from the definition, provide the standards/requirements for fireworks stands. Someone may sell fireworks from an open table and say “hey, I don’t meet the definition of fireworks stand because I’m not a trailer or a structure, so the ordinance doesn’t apply to me.”
- 3) You may want to change condition f to state “500 ft. setback from an existing residence” rather than residential zoning district. In the case where there may be a subdivision that has only vacant lots, it seems that should not prohibit a fireworks stand from locating on an Agricultural or Commercial lot next to such a subdivision.

Those are all my comments. Thank you for your efforts to establish standards in the Mandan Ordinance so that we can hopefully avoid mass confusion in the 2019 season.

Exhibit 3 - Morton County Temporary Use Application

MORTON COUNTY TEMPORARY USE APPLICATION

Filled out by Zoning Administrator:	App #:	Date Issued:	Date Ended:
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The proposed use is (check all that apply):

- | | | |
|---|---|---|
| <input type="checkbox"/> Concert of Fair | <input type="checkbox"/> Temporary housing for construction project | <input type="checkbox"/> Sales stand for produce, Christmas trees, or fireworks |
| <input type="checkbox"/> Construction staging area or Contractor's Office | <input type="checkbox"/> Public or religious meeting | <input type="checkbox"/> Any other temporary use |

USE INFORMATION

Type of Use Proposed:		
Legal Description of Property (section, township, lot, etc.):		
Address of Property:	Start Date:	End Date
Description:		

CONTACT INFORMATION

Applicant/Organizer

Name:	Phone:	Email:
Mailing Address:		

Property owner (if different than applicant/organizer)

Name:	Phone:	Email:
Mailing Address:		

By signing, I attest that this application is complete, accurate, and submitted with the required information as outlined in the attached checklist. I understand the regulations of the Morton County Land Use Code as they pertain to this request(s). I certify that all owners of property described herein have signed or ratified this application. I hereby request favorable consideration of the above described temporary use proposal:

Applicant's Signature	Date	Property Owner's Signature	Date
Additional Owner's Signature	Date	Additional Owner's Signature	Date

Applications are not complete until all required submittals have been received
 All applications are due by 5:00 p.m. 10 calendar days prior to the start date of the temporary use.

MORTON COUNTY DEVELOPMENT APPLICATION CHECKLIST

The following checklist and all required materials must be submitted with an application.

Temporary Use Permit *Submitted with application for temporary use*

Morton County Land Use Code,
Section 10-050

- Fee of: \$50
- Any information requested by the zoning administrator to ensure that the proposed temporary use meets the terms and conditions of the land use code.

APPROVAL CRITERIA

[from Section 10-050(a) of Land Use Code]

During the review of a request for a temporary use permit, the Zoning Administrator shall take the following matters into consideration:

1. The use is allowed in the zoning district of the proposed location.
2. The proposed timeline of the use complies with maximum allowable durations for the use in the Section 2-200 Use Table.
3. The use will not create a burden on public facilities and utilities which serve or are proposed to serve the area.
4. The use will be sufficiently compatible with surrounding land uses so that there will be no deterrence to the use of adjacent land and uses. Reasonable restrictions on the hours of operation, lighting, and noise levels may be defined where appropriate to maintain compatibility.
5. Adequate measures have been taken to provide ingress and egress so designed as to minimize traffic congestion, provide adequate access to public roads, and provide on-site parking.
6. Adequate water supply, individual sewage treatment system facilities, erosion control and stormwater management are provided in accordance with applicable standards.
7. All applicable permits, licenses, and/or certifications required for the operation of the temporary use have been acquired from the respective governing entities.
8. There is a plan in place to return the land to its original condition. Remediation shall be complete by the date specified on the temporary use permit. Extensions to the remediation period may be granted by the Zoning Administrator when completing remediation within the required time creates an extraordinary hardship for the applicant, but extensions may not be granted beyond ninety (90) days in total.

Exhibit 4 - Mandan Temporary Use Application

CITY OF MANDAN TEMPORARY USE APPLICATION

Filled out by Principal Planner:	App #:	Date Issued:	Date Ended:
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Fireworks Stand

USE INFORMATION

Type of Use Proposed:		
Legal Description of Property (section, township, lot, etc.):		
Address of Property:	Start Date:	End Date
Description:		

CONTACT INFORMATION

Applicant/Organizer

Name:	Phone:	Email:
Mailing Address:		

Property owner (if different than applicant/organizer)

Name:	Phone:	Email:
Mailing Address:		

By signing, I attest that this application is complete, accurate, and submitted with the required information as outlined in the attached checklist. I understand the regulations of the Code of Ordinances of the City of Mandan, North Dakota as they pertain to this request(s). I certify that all owners of property described herein have signed or ratified this application. I understand that this application, if approved, will be valid for no longer than 60 days. I hereby request favorable consideration of the above described temporary use proposal:

Applicant's Signature	Date	Property Owner's Signature	Date
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Additional Owner's Signature	Date	Additional Owner's Signature	Date
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Applications are not complete until all required submittals have been received
 All applications are due by 5:00 p.m. 14 calendar days prior to the start date of the temporary use.

CITY OF MANDAN DEVELOPMENT APPLICATION CHECKLIST

The following checklist and all required materials must be submitted with an application.

Temporary Use Permit	<i>Submitted with application for temporary use</i>	
FEE:	<input type="checkbox"/>	New (new applicant or revised site plan): \$100 Renewal (no changes from previously approved application): \$50
SITE PLAN:	<input type="checkbox"/>	Depicting location of all structures, distance to property line, ingress/egress, parking, lighting type and locations, etc.

APPROVAL CRITERIA

During the review of a request for a temporary use permit, staff shall take the following matters into consideration:

1. The use is allowed in the zoning district of the proposed location.
2. The use will not create a burden on public facilities and utilities which serve or are proposed to serve the area.
3. The use will be sufficiently compatible with surrounding land uses so that there will be no deterrence to the use of adjacent land and uses. Reasonable restrictions on the hours of operation, lighting, and noise levels may be defined where appropriate to maintain compatibility.
4. Adequate measures have been taken to provide ingress and egress so designed as to minimize traffic congestion, provide adequate access to public roads, and provide on-site parking.
5. Adequate water supply, individual sewage treatment system facilities, erosion control and stormwater management are provided in accordance with applicable standards.
6. All applicable permits, licenses, and/or certifications required for the operation of the temporary use have been acquired or will be acquired prior to initiating said temporary use from the respective governing entities.
7. There is a plan in place to return the land to its original condition. Remediation shall be complete by the date specified on the temporary use permit. Extensions to the remediation period may be granted by the Principal Planner when completing remediation within the required time creates an extraordinary hardship for the applicant, but extensions may not be granted beyond ninety (90) days in total.

Office Use Only – A copy of this application signed by the Building Official, City Engineer, and City Planner shall act as the approved temporary use permit.

 Building Official Signature:

 Date

 City Engineer Signature:

 Date

 City Planner Signature:

 Date

Exhibit 5 - Morton County Land Use Table

Section 2-200 Use Table

The following table lists all uses allowed within zoning districts of Morton County:

(a) Use Categories

- (1) **P** **Uses Permitted By Right:** A “P” indicates that a use category is allowed by right in the respective zoning district. These permitted uses are subject to all other applicable provisions of this code.
- (2) **P/R** **Uses Permitted By Right, with review:** A “P/R” indicates that a use category is allowed by right in the respective zoning district only after a site plan review by the Zoning Administrator. These permitted uses are subject to all other applicable provisions of this code.
- (3) **S** **Uses Permitted with Special Use Permit:** An “S” indicates that a use category is allowed only if reviewed and approved as a special use, in accordance with the special use review procedures of Section 10-040. Special uses are subject to all other applicable provisions of this code.
- (4) **T** **Uses Permitted with Temporary Use Permit:** A “T” indicates that a use category is allowed only if reviewed and approved as a temporary use, in accordance with the temporary use review procedures of Section 10-050 for a period not to exceed the number of days identified in the Use Table.
- (5) **/C** **Uses Subject to Specific Conditions:** A “P,” an “S,” or a “T” that is accompanied by the symbol “/C” indicates that the listed use type is subject to use-specific conditions. The standards for specific uses are listed in Article 5 | Specific Use Standards and a reference to the section is provided.
- (6) **-** **Uses Not Allowed:** A “-” indicates that a use type is not allowed in the respective zoning district, unless it is otherwise expressly allowed by other provisions of this code. Additionally, all uses not included on this list are not allowed within any zoning district within Morton County, unless they are interpreted as a use type in this table according to Section 2-200(b).

Section 2-200 | Use Table

Zoning Districts

Use Type (with reference to applicable standards)	A	E		R	RM		C	CR	I	IL	PI	PR	O
Agricultural Uses													
Farming or Ranching	P	P		P	P		P	P	P	P	P	P	P
Animal Feeding Operation, major - Section 5-060	S/C	-		-	-		-	-	-	-	-	-	-
Animal Feeding Operation, minor - Section 5-060	P/C	P/C		-	-		-	-	-	-	-	-	-
Grain Elevator	S	-		-	-		-	-	-	-	-	-	-
Winery or Distillery or Brewery - Section 5-030	P/C	P/C		-	-		-	S/C	-	-	-	-	-
Agricultural Recreational Use - Section 5-030	P/C	P/C		-	-		-	S/C	-	-	-	-	-
Greenhouse, commercial	P	P		-	-		P	P	-	-	-	-	-
Residential Uses													
Dwelling, single family	P	-		P	P		-	P ¹	-	-	-	-	-
Dwelling, multifamily	-	-		-	P		-	-	-	-	-	-	-
Manufactured Home Park - Section 5-140	S/C	-		S/C	S/C		-	-	-	-	-	-	-
Group Home	P	-		P	P		-	-	-	-	-	-	-
Live-Work Unit	-	-		-	-		-	P	-	-	-	-	-
Bed and Breakfast	-	-		-	-		-	S	-	-	-	-	-
Temporary Crew Housing - Section 5-170	S/C	-		-	-		S/C	-	S/C	-	-	-	-
Commercial Uses													
Animal Boarding Kennel	S	S		-	-		P	P	-	P	-	-	-
Bank	-	-		-	-		P	P	-	-	-	-	-
Compassion Center (dispensary) - Section 5-250	-	-		-	-		S/C	-	S/C	-	-	-	-
Fueling Station - Section 5-090	-	-		-	-		P	P/C	P	-	-	-	-
Livestock Sales Pavilion	S	-		-	-		-	-	P	-	-	-	-
Hotel	-	-		-	-		P	-	-	S	-	-	-
Office	-	-		-	-		P	P	-	P	P	-	-
Parking Lot or Parking Garage ²	-	-		-	-		P	-	-	-	-	-	-

¹ An existing residence, on a lot that is subsequently rezoned to the CR District, is allowed. New construction of a single family home on a lot within the CR District is not allowed.

Section 2-200 | Use Table

Zoning Districts

Use Type (with reference to applicable standards)	A	E		R	RM		C	CR	I	IL	PI	PR	O
Retail, automotive	-	-		-	-		P	-	P	-	-	-	-
Retail, farm implements	-	-		-	-		P	-	P	P	-	-	-
Retail, general	-	-		-	-		P	P	-	-	-	-	-
Retail, grocery	-	-		-	-		P	P	-	-	-	-	-
Services, personal	-	-		-	-		P	P	-	-	-	-	-
Services, automotive repair	-	-		-	-		P	-	P	P	-	-	-
Services, general repair	-	-		-	-		P	P	P	P	-	-	-
Sign, outdoor advertising	-	-		-	-		P	-	P	-	-	-	-
Undertaking Establishment - Section 5-070	S/C	-		-	-		-	-	P	P	-	-	-

Arts, Entertainment and Recreational Uses

Adult Entertainment Center - Section 5-020	-	-		-	-		-	-	S/C	-	-	-	-
Amusement Parks / Commercial Recreation	S	-		-	-		P/R	-	-	-	-	S	-
Arts and Crafts Gallery	-	-		-	-		P	P	-	-	-	-	-
Bar or Tavern	-	-		-	-		S	-	-	-	-	-	-
Bowling Alley	-	-		-	-		P	-	-	-	-	-	-
Drive-in Theater - Section 5-080	S/C	-		-	-		S/C	-	S/C	-	-	-	-
Event Center – Section 5-230	-	-		-	-		P/C	S/C	-	-	-	-	-
Golf Driving Range - Section 5-100	S/C	-		-	-		S/C	-	-	-	-	S/C	-
Hunting Cabin	S	-		-	-		-	-	-	-	-	-	-
Neighborhood Park or Playground	P	P		P	P		P	P	-	-	P	P	P/R
Marina/Boating Facility	-	-		-	-		P	P	-	-	-	P	-
Miniature Golf Course - Section 5-100	S/C	-		-	-		S/C	-	-	-	-	-	-
Pool or Ice Rink, public	-	-		-	-		P	-	-	-	-	P	-
Race Track	S	-		-	-		-	-	-	-	-	-	-
Restaurant	-	-		-	-		P	P	-	S	P/R ³	P/R ³	-

² Only applies to parking facilities that are a principal use. Parking is permitted as an accessory use according to Section 4-010 Automobile Parking.

³ Permitted as an accessory use, conditioned on Zoning Administrator review and approval.

Section 2-200 | Use Table

Zoning Districts

Use Type (with reference to applicable standards)	A	E		R	RM		C	CR	I	IL	PI	PR	O
Riding Stable / Riding Arena ⁴ - Section 5-240	P/R	P/R		-	-		-	P/R	-	-	-	P/R	-
Recreational Vehicle Camp - Section 5-150	S/C	-		-	-		S/C	-	S/C	-	-	S/C	-
Rodeo Arena ⁵	S	-		-	-		P	-	-	-	-	-	-
Sports Arena	-	-		-	-		P	-	-	S	-	-	-
Shooting Range	S	-		-	-		-	-	P	-	-	S	-
Theater	-	-		-	-		P	P	-	-	-	-	-
Trailhead Facility	P	P		P	P		P	P	P	P	P	P	P/R

Institutional Uses

Cemetery - Section 5-070	S/C	-		-	-		-	-	-	-	S/C	-	-
Church	S	-		P	P		P	P	-	-	P	-	-
Community Center	P	-		-	-		P	P	-	S	P	P	-
Day Care	-	-		-	-		P	P	-	-	P	-	-
Health Care Facility	-	-		-	-		P	-	-	-	P	-	-
Nursing Home or Assisted Living Facility	-	-		-	-		P	P	-	-	P	-	-
School, college or university	-	-		-	-		P	-	-	-	P	-	-
School, elementary or secondary	P	-		P	P		P	-	-	-	P	-	-
School, technical or trade	-	-		-	-		P	-	P	P	P	-	-
Police, Fire, or EMS Station	P	-		-	-		P	-	P	P	P	-	-
Veterinary Clinic	S	S		-	-		P	P	-	P	-	-	-

Industrial Uses

Asphalt, Concrete Batch, or Aggregate Plant	S	-		-	-		-	-	P	-	-	-	-
Compassion Center (growing/processing) - Section 5-250	S/C	-		-	-		-	-	S/C	-	-	-	-
Contractor Storage Yard	S	-		-	-		-	-	P	S	-	-	-

⁴ A riding stable for private use in the Residential District is an accessory “Animal Husbandry” use. Any stable or riding arena located in a district other than the Residential District must submit a site plan to the Zoning Administrator for review.

⁵ For commercial use. Rodeo arenas for private use only may be permitted by right in the Agricultural (A) District.

Section 2-200 | Use Table

Zoning Districts

Use Type (with reference to applicable standards)	A	E		R	RM		C	CR	I	IL	PI	PR	O
Energy Conversion Facility – Section 5-085	-	-		-	-		-	-	S/C	-	-	-	-
Fertilizer Facility	S	S		-	-		-	-	P	-	-	-	-
Aggregate Extraction and Processing - Section 5-110	S/C	S/C		-	-		-	-	P/C	-	-	-	-
Salvage Yard - Section 5-130	-	-		-	-		-	-	S/C	-	-	-	-
Laboratory, research	-	-		-	-		-	-	P	P	-	-	-
Manufacturing, major	-	-		-	-		-	-	P	-	-	-	-
Manufacturing, minor	-	-		-	-		-	-	P	P	-	-	-
Oil and Gas Well	P	P		P	P		P	P	P	P	P	P	P
Outdoor Storage – Section 5-200	S/C	S/C		-	-		-	-	P	P	-	-	-
Slaughterhouse	-	-		-	-		-	-	S	-	-	-	-
Warehouse, Storage, and Wholesale Distribution	S	S		-	-		-	-	P	P	-	-	-
Solid Waste Facility - Section 5-160	S/C	-		-	-		-	-	S/C	-	-	-	-
Sewage Treatment Plant	S	-		-	-		-	-	P	-	-	-	-
Storage, fuel	-	-		-	-		-	-	P	-	-	-	-
Telecommunications Facility - Section 5-190	S/C	S/C		-	-		-	-	P	P	-	-	-
Vehicle Storage, Long-term – Section 5-210	S/C	S/C		-	-		-	-	P	P	-	-	-
Utility, public facility	P	P		-	-		-	-	P	P	-	-	-
Wind Energy Facility - Section 5-180	S/C	S/C		-	-		-	-	-	-	-	-	-

Transportation-Related Uses

Airport - Section 5-040	S	-		-	-		-	-	-	-	-	-	-
Railyard	-	-		-	-		-	-	P	-	-	-	-
Railroad Track	P	-		-	-		P	-	P	-	-	-	-
Transloading Facility	S	-		-	-		-	-	P	-	-	-	-

Section 2-200 | Use Table

Zoning Districts

Use Type (with reference to applicable standards)	A	E		R	RM		C	CR	I	IL	PI	PR	O
--	----------	----------	--	----------	-----------	--	----------	-----------	----------	-----------	-----------	-----------	----------

Additional Accessory Uses

Accessory Dwelling Unit - Section 5-010	S/C	-		-	-		-	-	-	P/C	-	-	-
Animal Husbandry - Section 5-050	P	-		P/C	P/C		-	-	-	-	-	-	-
At-Home Business - Section 5-120(c)	S	-		-	-		-	P/R	-	-	-	-	-
Home Occupation, Major - Section 5-120(b)	P/C	-		S/C	S/C		-	- P/R	-	-	-	-	-
Home Occupation, Minor - Section 5-120(a)	P/C	-		P/C	P/C		-	P	-	-	-	-	-
Home Occupation, 2 nd on lot or tract ⁶	S/C	-		S/C	S/C		-	P	-	-	-	-	-

Temporary Uses

Concert or fair (21 days)	T	T		-	-		T	-	T	-	T	-	-
Construction staging area (180 days)	T	T		T	T		T	T	T	T	-	-	-
Contractors office (180 days)	T	T		T	T		T	T	T	T	-	-	-
Housing for construction project (180 days)	T	-		-	-		T	T	T	T	-	-	-
Public or religious meeting (60 days)	T	T		-	-		T	-	T	-	T	-	-
Sales stand for produce, Christmas trees, or fireworks (60 days) ⁷	T	T		-	-		T	T	T	-	-	-	-
Any other temporary use (180 days)	S	S		S	S		S	S	S	S	S	S	S

⁶ A second Home Occupation may be either Minor or Major, but may not be an At-Home Business.

⁷ Rummage sales, yard sales, and garages sales do not require any permit, subject to Section 5-120(a)(6).

EXHIBIT 6 - Resolution Establishing Fees

RESOLUTION ADJUSTING PLANNING AND ENGINEERING FEES Board of City Commissioners City of Mandan, North Dakota

WHEREAS, The cost for certain tasks should be borne by the applicant requesting action; and

WHEREAS, City staff have estimated the average time and cost necessary to complete certain tasks; and

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Mandan, Morton County, North Dakota, that, beginning March 6, 2019, the following adjustments shall be made to the fees charged for various tasks performed by city staff:

Task	Current Fee	Fee Effective March 6, 2019
Fireworks Sales, 1-year	-	100

President, Board of City Commissioners

ATTEST:

City Administrator



Board of City Commissioners

Agenda Documentation

MEETING DATE: March 5, 2019
PREPARATION DATE: February 27, 2019
SUBMITTING DEPARTMENT: Engineering and Planning
DEPARTMENT DIRECTOR: Justin Froseth, PE
PRESENTER: John Van Dyke, AICP, CFM,
SUBJECT: Second Consideration of Ordinance 1306 Related to Backyard Chickens and Resolution Establishing Fees

STATEMENT/PURPOSE: Consider approval of second consideration of Ordinance 1306 related to the keeping of backyard chickens in the City of Mandan and establish associated permitting fees.

BACKGROUND/ALTERNATIVES: This ordinance is the product of several residents noting interest in housing chickens in town, more specifically a request by Travis Dengel who provided a brief presentation in Fall 2018.

Additional information was provided to Planning and Zoning Commission at another meeting including a brief survey of communities in North Dakota that allow chickens, the number allowed, and commonalities within the ordinances such as disallowing roosters (See Exhibit 2). Also provided were the benefits and consequences of permitting chickens and the means to mitigate negative impacts (See Exhibit 3).

Presently, the code does not allow chickens unless as part of a commercial-scale operation. The code as outlined in Exhibit 1 would allow up to four (4) chickens per lot with several restrictions to mitigate negative impacts to neighboring property owners.

A preliminary draft ordinance was constructed and sent to city departments and several other agencies for review as is typical for ordinances and development applications. Minor adjustments were made based on feedback from the Building Department, Public Works, and Morton County Planning and Zoning. Exhibit 1 is the ordinance following these minor adjustments.

Finally, Exhibit 4 provides an acknowledgement of understanding of the requirements and responsibilities which the applicant and owner will be required to sign prior to the issuance of a permit. This will help ensure compliance as permits are issued.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 5, 2019

Subject: Second Consideration of Ordinance 1306 related to the Keeping of Backyard Chickens within the City of Mandan and Resolution Establishing Fees

Page 2 of 2

Planning and Zoning voted nine (9) in favor and two (2) opposed to recommend approval of Ordinance 1306 at the January 2019 meeting.

City Commission voted three (3) in favor and two (2) opposed to approve the first consideration of Ordinance 1306.

Minor adjustments to Ordinance 1306 between first and second consideration include the following:

- Clarified that the “coop” is also required to be setback from property line and adjacent dwellings.
- Removed definition of “exercise yard”, as it is not used within the ordinance.

The fees associated with the permit are provided in Exhibit 6. These fees are estimated to account for staff time involved in the permitting of backyard chickens. They are as follows:

- New Permit - \$100
- Annual Renewal - \$50

ATTACHMENTS:

Exhibit 1 – Ordinance #1306 – Backyard Chickens

Exhibit 2 – Sample of ND Ordinances

Exhibit 3 – Pros, Cons, & Means to Mitigate Negative Impacts

Exhibit 4 – Understanding of Requirements and Responsibilities

Exhibit 5 – Example Site Plan

Exhibit 6 – Resolution Establishing Fees for Backyard Chicken Permit

FISCAL IMPACT: N/a

STAFF IMPACT: N/a

LEGAL REVIEW: This document has been sent to Attorney Brown for his review.

RECOMMENDATION: The Engineering and Planning Department and Planning and Zoning Commission recommend approval of Ordinance 1306 as presented in Exhibit 1.

SUGGESTED MOTION: I move to approve Ordinance 1306 as presented in Exhibit 1.

EXHIBIT 1 - Draft Ordinance

ORDINANCE NO. 1306

An Ordinance to Amend and Re-enact Section 6-1-6 related to possession of animals and Enact Section 105-1-16 related to possession and care of chickens within city limits.

WHEREAS, Numerous Mandan residents have voiced interest in raising chickens for purposes of individual food production

WHEREAS, Many urban communities in the North Dakota and across the nation allow residents to keep chickens within city limits when meeting certain requirements

WHEREAS, Negative impacts stemming from the keeping of chickens can be mitigated through proper regulation and education

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

Section 1. Amended. Section 6-1-6 related to possession of animals is hereby amended to read as follows:

It is unlawful and is declared a nuisance for any person to keep, own, possess or have under his/her control any poultry within the city limits, with the exception of:

1. ~~Commercial~~ poultry hatcheries
2. As permitted in Section 105-1-16; or
3. As otherwise allowed by law

It shall also be unlawful and is declared a nuisance for any person to ~~or to~~ keep within the platted portion of the city any swine, ~~poultry,~~ rabbits, cows or horses.

Section 2. Enacted. Section 105-1-16 related to possession and care of chickens within city limits:

Sec. 105-1-16 - Chickens

- (a) Purpose. It is the purpose of this section to regulate the keeping of chickens at an individual or household scale to promote the health, safety, and general welfare of the citizens of the city. This section in no way applies to commercial production and processing of poultry as regulated in Section 105-3.

- (b) Permit required. A renewable permit issued by the city planner or his/her designee shall be required prior to conducting any keeping of chickens at an individual or household scale. The permit shall be good for one calendar year as measured from the date of issuance and is tied to both the applicant and the land. Permits shall be non-transferrable.
- (c) Revocation. A permit may be revoked by the city planner or his/her designee for failure to comply with the requirements outlined in this section or any other local or state regulation governing keeping or cruelty to animals. Any person whose permit is revoked shall, within ten business days thereafter, humanely dispose of all chickens being owned, kept or harbored by such person, and no part of the application fee shall be refunded.
- (d) Appeal. The permittee may appeal the revocation or refusal of renewal of the permit by timely request for a hearing before the Board of City Commissioners. The request for hearing must be received by the city planner or his/her designee within ten business days following the date of the notice of revocation or refusal of renewal. The Board of City Commissioners shall hold a hearing on the permittee's request for hearing and shall render a final decision on the matter after said hearing.
- (e) Multiple Property Limitation. An applicant owning multiple properties abutting or in close proximity is limited to a single permit. The planner or his/her designee shall make the determination of what is considered "close proximity."
- (f) Application. An application for a permit shall include:
1. General form established by staff to capture applicant, property owner, and property information, including necessary signatures.
 2. Property owner and applicant, if different than the property owner, signed understanding of the requirements and responsibilities outlined in this section.
 3. Site plan illustrating:
 - a. Property lines and distance to proposed coop and run
 - b. Neighboring residence(s) location and distance to proposed coop and run
 - c. Type and style of back and side yard fence
 4. Construction drawings including at least one of the following:
 - a. Materials used in the construction of the coop and run
 - b. Diagram and illustration if provided in a prefabricated kit
 5. Fee. A non-refundable application fee as established by the Board of City Commissioners shall be required at the time of application. The Board of City Commissioners may establish a different fee to be applied to new applications and renewal applications.

(g) Late renewal applications not accepted. Late renewal applications shall be treated the same as new applications, including fee and submittal requirements.

(h) Definitions. The established definitions are for purposes of this section only. If any conflict exists with other sections of this code the more restrictive shall apply.

Brood means group of chickens, whether or not from the same hatching.

Brooding means the period in the animal's growth when supplemental heat must be provided due to the bird's inability to generate enough body heat.

Chicken means a domesticated fowl more formally known and scientifically classed as gallus gallus domesticus.

Coop means a fully enclosable, non-residential structure for housing chickens.

Hen means a female chicken.

Rooster means a male chicken.

Run means a fully enclosed and covered area attached to a coop where the poultry can roam unsupervised.

(i) Standards

1. No more than four (4) hens shall be permitted on any one lot.

2. Roosters shall not be permitted. As soon as a rooster is identified it shall be culled from the brood.

3. The chickens, coop, and run, shall be located in the rear or side yard obscured from view from any street, trail, public park, or other right-of-way.

4. Chickens outside of the coop and run shall be supervised at all times.

5. The coop dimensions shall total less than one-hundred-twenty (120) square feet.

6. Coop height as measured from the average ground elevation to the highest point on the coop shall not exceed eight (8) feet.

7. The coop and run shall be located no closer than ten (10) feet from the property line and no closer than twenty (20) feet from an adjacent property dwelling.

8. The coop shall be constructed in a manner which prevents rodent infiltration.

9. The coop shall be constructed to provide a minimum of four (4) square feet per chicken.

10. The run shall be constructed to provide a minimum of ten (10) square feet per chicken.
11. Chickens shall at no time be located off the property for which they have been permitted.
12. Coops, runs, and manure storage shall be kept 20 feet from streams, tributaries, ditches, storm water management facilities, drop inlets, or other storm drainage areas that would allow fecal matter to enter any city storm drainage system or stream. Dumping chicken manure into the city's storm drainage system is prohibited.
13. Except for chickens properly slaughtered for consumption, dead chickens must be disposed of within 24 hours after death. Legal forms of chicken carcass disposal include burial and off-site incinerate or rendering. All slaughtering of chickens shall be conducted so as not to be visible to the public or adjacent property owners and occupants.
14. All grain and food stored for the use of the chickens shall be kept in a rodent proof container.

Section 3. Sec. 6-1-6 is amended and re-enacted.

Section 4. Sec. 105-1-16 is enacted.

Timothy A. Helbling, President
Board of City Commissioners

Attest:

James Neubauer,
City Administrator

First Consideration:
Second Consideration and Final Passage:

February 19, 2019
March 5, 2019

EXHIBIT 2 - Sample of Communities in ND Allowing Chickens

Jurisdiction	Allowed	Approval Process	Maximum Number	Notes
City of Casselton, ND	Yes	City Council	2	Hens only
City of Jamestown, ND	Yes	Allowed by right	Not specified	Fowl in general allowed; enclosure at least 100' from any residence; Strict requirements within ordinance outline on how fowl need to be kept. Any deviation is a nuisance violation.
City of Wahpeton	Yes	Administrative Permit	6	Hens only; well-defined and organized ordinance
City of Park River, ND	Yes	Administrative Permit	8	Hens only; 75% of property owners within 200' of coop must approve.
City of Beach, ND	Yes	Allowed by right	Not specified	Odor or noise leads to nuisance violation
City of Bismarck, ND	Yes	Allowed by right	10	Limited to certain zoning districts in the ETA only; Proximity buffer to neighboring property structures of 150'
City of Fargo, ND	Yes	Administrative Permit	4	Hens only;

Exhibit 3 - Pros, Cons, and Means to Mitigate Negative Impacts

Brief Overview of Backyard Chickens

The Pros

Homegrown, organic food source

Provide education regarding the species and lessons on self-sustainability

Pest control – chickens feed on insects in the yard

Source of fertilizer for gardens

The Cons/Means to mitigate

Noise – chickens are animals and inherently make noise.

- Limitations on the quantity of chickens allowed can reduce the impact of noise. Roosters produce the most noise.
- Disallowing roosters will greatly assist with noise reduction from the activity.

Health issues – Chickens can attract rodents, produce a healthy supply of feces, and carry many strains of bacteria such as salmonella.

- Establishing setbacks from property lines will help ensure that impacts stemming from the activity will remain on site.
- Requiring specific dimensional standards per chicken will ensure adequate space is provided for each animal and the byproduct that it produces.
- Requiring construction materials that prevent rodent infiltration.
- Establishing a permitting process will help ensure that interested residents are educated on the expectations of upkeep and other limitations and requirements BEFORE choosing to pursue the activity.

Odor

- Quantity restrictions will help control the quantity of feces and other odorous byproducts.
- Minimum setbacks from adjacent property residences.
- Minimum lot size requirements or quantities based on lot size.

Visual

- Restrictions to heights of coops and other ancillary structures

EXHIBIT 4

Acknowledgement of Understanding of Requirements and Responsibilities

Read the following portion of the Mandan Municipal Code governing chickens. These regulations must be followed or the property owner(s) may be cited for a violation by code enforcement.

Sec. 105-1-16 - Chickens

- (a) Purpose. It is the purpose of this section to regulate the keeping of chickens at an individual or household scale to promote the health, safety, and general welfare of the citizens of the city. This section in no way applies to commercial production and processing of poultry as regulated in Section 105-3.
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14. All grain and food stored for the use of the chickens shall be kept in a rodent proof container.

By signing below, you acknowledge that you understand the requirements outlined in Section 105-1-16 related to the keeping of chickens.

PLEASE NOTE: Neighborhood Covenants, Conditions, and Restrictions (CC&Rs) supersede the right provided through this permit. By signing below, you indicate to the best of your knowledge no CC&Rs exist that prohibit backyard chickens on your property. No refund shall be granted for reasons related to CC&Rs and the inability to exercise the right granted through this permit.

Applicant

Signature: _____ Date: _____

**Property
Owner**

Signature: _____ Date: _____

EXHIBIT 5 - Site Plan Example

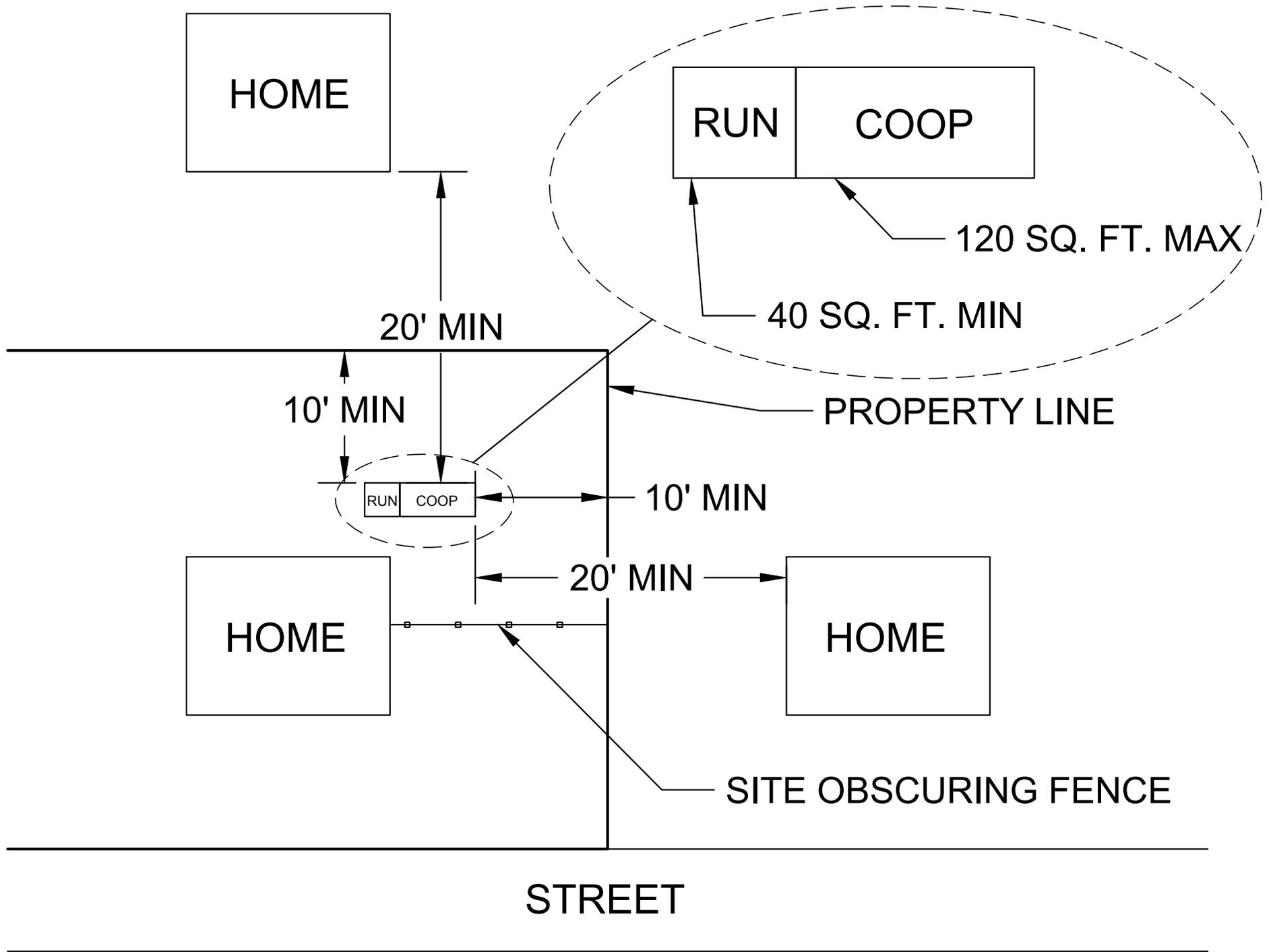


EXHIBIT 6 - Resolution Establishing Fees

RESOLUTION ADJUSTING PLANNING AND ENGINEERING FEES Board of City Commissioners City of Mandan, North Dakota

WHEREAS, The cost for certain tasks should be borne by the applicant requesting action; and

WHEREAS, City staff have estimated the average time and cost necessary to complete certain tasks; and

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Mandan, Morton County, North Dakota, that, beginning March 6, 2019, the following adjustments shall be made to the fees charged for various tasks performed by city staff:

Task	Current Fee	Fee Effective March 6, 2019
Backyard Chicken Permit, 1-year - New	-	100
Backyard Chicken Permit, 1-year - Renewal	-	50

President, Board of City Commissioners

ATTEST:

City Administrator