



AGENDA
MANDAN PLANNING & ZONING COMMISSION
COMMISSION ROOM 5:30 P.M.
APRIL 22, 2019

Roll Call, Reading and Approval of the March 25, 2019 minutes.

PUBLIC HEARINGS

1. Consider a request from Val Renner and Janet Dykshoorn for preliminary plat, zone change and annexation approval of Evergreen Heights 3rd Addition. Said property is part of Lot B of Auditor's Subdivision and all of Lot A and Lot B of Lot B Auditor's Subdivision and Lot 1, Block 1, Evergreen Heights in the SW ¼ of Section 35, Township 139N, Range 81W. The requested zone change is Agricultural to RM Residential and CA Commercial.

A. Staff report B. Open public hearing C. Close public hearing D. Commission action

2. Consider an ordinance of the Mandan Municipal Code enacting guidelines and regulations regarding murals.

A. Staff report B. Open public hearing C. Close public hearing D. Commission action

3. Consider Ordinance No. 1301 to amend and re-enact portions of Subpart B – Land Development and Public Services of the Mandan Municipal Code related to Telecommunications Facilities (Small Cells).

A. Staff report B. Open public hearing C. Close public hearing D. Commission action

OTHER BUSINESS

ADJOURN

MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL
March 25, 2019

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall on March 25, 2019, at 5:30 p.m. CDT.

ROLL CALL

Commissioners Present: Boehm, Klemisch, Knoll, Helbling, Leingang, Liepitz, Renner, Camisa

Commissioners Absent: Klein, Laber, Frank, Robinson

Commissioner Leingang motions to approve the February 25, 2019 minutes. Commissioner Renner seconds. Upon vote, the motion passes unanimously.

PUBLIC HEARINGS

1. Consider a request from Hopfauf Custom Builders and Runnings for a Special Use Permit. The request is for remodeling of its new store located on part of Blocks 11 & 12, Mandan Proper, in Section 27, Township 139N, Range 81W. The main store will be located at 504 West Main Street with a warehouse located at 511 -1st Street NW.

A. Staff report.

John Van Dyke, City Planner, describes the request.

Hopfauf Custom Builders on behalf of Runnings Supply, Inc. is requesting a special use permit for farm supply retail (See application docs in Exhibit 1). A special use permit is required for vehicle and farm supply sales in the DF – Downtown Fringe District.

The two buildings are the former Central Market and Thrifty White. The City acquired the two buildings and associated parking lots in 2017 for a purchase price of \$1.5M. A redevelopment proposal was presented to City Commission in Summer 2018, where staff was guided to explore alternative private investment opportunities.

Runnings Supply, Inc. closed on the property in January for a purchase price of \$1,025,000. Runnings has received approval for Renaissance Zone funds and intends to apply for Storefront Improvement Funds at the time of writing.

The site plan (Exhibit 2) was presented to Mandan Architectural Review Commission on March 12, 2019 and received approval contingent on an acceptable landscaping plan and improved quality of the fence for the outdoor storage area. They have subsequently submitted a landscaping plan that will be reviewed at the March 26, 2019 Mandan Architectural Review Commission meeting (See Exhibit 3).

The primary reason that this use requires a special use permit is largely due to the outdoor display of inventory for sale and amount of unimproved land used for this purpose and customer parking. These types of uses commonly have large ground-level parking lots which is a poor use of the limited land in a downtown setting. Changes regarding certain aspects of

this application are not possible due to the existing structure placement and driveway approaches. However, there are design improvements that can be required to ensure the development is harmonious with the downtown redevelopment aspirations of the City of Mandan driven by the Downtown Mandan Subarea Study and Mandan Land Use and Transportation Plan.

In evaluating special uses, Sec. 105-1-5 (3) denotes the following requirements to recommend approval:

(3) In order to give a favorable recommendation, the planning and zoning commission must consider the following:

- a. The proposed use is in harmony with the purpose and intent of this chapter;*
- b. The proposed use is not in conflict with the adopted comprehensive plan of the city;*
- c. The proposed use will not adversely affect the health and safety of the public and the workers and residents in the area;*
- d. The proposed use will not be detrimental to the use or development of adjacent properties or of the surrounding neighborhood; and*
- e. The proposed use meets all appropriate regulations for the district in which it will be located.*

Staff finds that the application for the special use permit aligns with the evaluation criteria with the exception of the proposed landscaping plan. The limited five (5) foot landscaping buffer is insufficient given the size of the parking lot coupled with the proximity to Dykshoorn Park to the south and southeast.

This finding is supported by the Mandan Land Use and Transportation Plan Goal 7, Policy 4, which states:

Use incentives to encourage business owners to use and increase landscaping and other design aesthetics to beautify their buildings, entrances and parking lots.

It is additionally supported by the Mandan Downtown Subarea Study. The use of landscaping to visually separate the roadway and sidewalk from adjacent parking lots is the second highest ranking parking policy coming from this study. By breaking up the visual monotony, W. Main St. beyond 4th Ave. NW lends itself to be inviting to pedestrians in downtown.

Building and Business Development recommend approval of the special use permit for farm supply sales at this location.

Engineering and Planning recommend approval of the special use permit with the following conditions and reasons documented (See Exhibit 4):

The following requirements are supported by the application received by the Engineering and Planning Department in Exhibit 1:

- 1) 511 1st St. shall be used for inventory storage and is considered accessory to the primary use of farm supply sales conducted at 504 W. Main St.

- 2) The property owner shall substantially conform to the site plan as illustrated on page 3 of Exhibit 2.

Landscaping utilized to break up the gray between the road and adjacent parking lots is supported by the Mandan Downtown Subarea Study (p. 14 – Parking Policies, p. 80 - Design challenges facing Main Street..., p. 87 – Community Agenda, Beautify Downtown). The city-issued incentives provided for this development align with the Mandan Land Use and Transportation Plan Goal 7, Policy 4. The size of the parking lot and adjacency to the park to the southeast provide an opportunity for streetscape beautification and place-making in order to entice pedestrian activity west through 4th Ave. NW along W. Main St. Based on these findings, the following is required:

- 3) The property owner shall substantially conform to a landscaping plan to be submitted prior to ratification by City Commission which shall include at a minimum:
 - a. A minimum five (5) foot landscaping buffer between the sidewalk and parking lot along W Main St. and 4th Ave. NW.
 - b. A minimum twenty-five (25) foot by twenty-five (25) foot landscaped area located on the southeast corner abutting the sidewalk of W Main St. and 4th Ave. NW.
 - c. A minimum of ten (10) trees and seventy-eight (78) shrubs shall be included in the area noted in 2) a. and 2) b. above.
 - d. The trees and shrubs shall be approved by the City Arborist.

Based on the March 12, 2019 Mandan Architectural Review Commission the fence improvement is required:

- 4) The proposed fence located between 511 1st St and 504 W. Main St. shall be no less than six (6) feet tall and either wrought iron, if non-site-obscuring, or wood/vinyl, if site obscured.

In order to facilitate the relocation of the greenhouse based on conversation with the applicant and not require a reevaluation of the special use permit site plan, the following exception to requirement 2) above is allowed:

- 5) The greenhouse may be relocated directly in front of the east loading dock, but in no way shall interfere with the alleyway to the east.

The following requirement is supported by the letter of intent (Exhibit 1) provided by the applicant with additional provision for setup and takedown prior to opening and upon closing of the store.

- 6) The outdoor display of goods shall be limited to the hours between 6:00am and 10:00pm, seven (7) days a week. They shall be enclosed within the proposed fence at all other times.

Commissioner Liepitz points out the staff report and Exhibit 4 discussing 10 trees and 78 shrubs references paragraph 2a and 2b should be changed to 3a and 3b. He asks if the letter

from the city arborist changes the staff recommendation or is it just for their information? John says the landscaping plan as submitted is insufficient to make a firm recommendation. He says there is merit in tabling this until April, which would give more time for evaluation. This was submitted mid last week. A need for a landscaping plan was only discussed at the Mandan Architectural Review Meeting (MARC) on March 12th. The city arborist makes great note that 5' is insufficient for certain types of trees. The kind of trees and number of them should be spelled out in this plan. It would be best to follow the arborist's recommendations for the species.

Commissioner Knoll asks why the tree & shrub recommendation? John says it is common to have a green landscaping buffer on commercial lots downtown for the beautification and appeal of downtown.

Commissioner Renner asks if a delay would hurt their target open date? John says they would still be able to pull their permit. Their target date is July 15. If this was tabled until April, it could be evaluated and heard at the mid May City Commission with the requirements spelled out in a special use permit and still have a 2 month buffer before opening.

John says he is recommending approval on what is outlined in his report.

Commissioner Leingang asks if anybody comes back and cleans up the shrubs and weeds. John says Runnings has been given a lot of subsidies from the city and the plan should blend into our downtown.

Commissioner Camisa thinks they will have to install a different tree based on the arborist's letter. The size of a certain species can affect the number of trees and shrubs that will fit in there. John says he defined what he thought was adequate for downtown. It is difficult not knowing what kind of tree. What he has outlined is a skeleton to work with and get feedback from other departments and Runnings.

B. Open public discussion.

Dave, Hopfauf Custom Builders, says Runnings is happy to provide greenery. They agree to the 5', but do not want the corner 25' x 25' section and they think it is too many shrubs. Runnings does not want to have to do maintenance of it. They are doing demolition right now and are on a deadline.

Shawn Ouradnik, Building Official, says if it is tabled, they will be able to pull their permit and continue working. The special use permit will not be issued until the landscaping plan is approved and done. There are a lot of events in that area, being across the street from Dykshoorn Park, there are always a lot of photos of this area across all kinds of media. We can make it more aesthetically pleasing. He thinks a 5' buffer is too shallow. His opinion is 6'-8'. He thinks the city can ask for something more aesthetically pleasing because they are receiving subsidies and because of the area it is in.

Mayor Helbling would like to see fewer, larger clusters of greenery, even if they are wider than 5'. He thinks that corner is a must do as well. It does not need to be 25x25. The site plan needs to be approved by the Architectural Review Commission.

C. Close public discussion.

D. Commission's action.

Commissioner Leingang motions to recommend approval of the special use permit on condition the landscaping plan is taken back to the Mandan Architectural Review Commission and an agreement is made on the 5' strip and the 25'x25' corner. Commissioner Knoll seconds. Upon vote, the motion passes unanimously.

2. Consider a change to city ordinance Section 105-1-15 related to signs. Said change would allow the building inspections department to process any standard sign application that clearly falls within the established ordinances without having to go before the Mandan Architectural Review Commission.

A. Staff report.

Shawn Ouradnik, Building Official, presents.

A change to City ordinance Section 105-1-15. – Signs (Exhibit 1) to allow the building inspections department to process any standard sign application. The building inspections department has received complaints from customers about the sign permitting process particularly the time it takes to go before the Mandan Architectural review Commission (MARC). With the MARC meeting every second and fourth Tuesday of every month it has become an issues for some sign contractors and installers schedule installations in a timely fashion. The question of consistency and attendance has come into question as well. This action would allow the MARC to focus its efforts on other areas of the architectural review process and provide better guidance on more substantial issues as it was intended. By allowing the building inspections office to process any sign that clearly falls within the established ordinances the process can be expedited and we can provide a better service to the customers. The applicant would be able to ask for the sign to be evaluated by MARC if they do not fall within the established ordinances. MARC would be able to issue a site specific waiver to the ordinance if they feel the intent of the ordinance was not being violated and the sign was not causing an encumbrance or hazard to surrounding properties or patrons. This change also outlines the corrective actions for unsafe or unlawful signs by establishing the Code Enforcement Officer as the first point of contact for these signs. This is the current procedure the city follows now.

The final change in this document would establish a size limitation on total sign area of 30% of the street facing sides of the structure and maximum of 1 square foot of sign area for each 2.5 square feet of lot frontage for pylon and pole signs. Previously the building inspections department has received questions that we have not been able to answer because we do not have an established maximum area for pole and pylon signs or a maximum area for all signage that we regulate on a building. Many people have been using the chart for the electronic message centers which would limit the sign area to 100 square feet at maximum. After looking into other communities in North Dakota the language being proposed is a close correlation to the language used in Fargo but is also similar to what is used in Bismarck.

Commissioner Liepitz says the statement in Subsection F says if MARC “feels”. He would like “feels” changed to “determine”.

Mayor Helbling thinks this is a good ordinance.

Commissioner Klemisch thinks anytime you can cut out the red tape is a good thing.

The code enforcement officer take the initial complaints or first point of contact and tracks the complaints. She filters the complaints to work with the appropriate department.

B. Open public discussion.

C. Close public discussion.

D. Commission's action.

Commissioner Klemisch motions to recommend approval of revisions to 105-1-15. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.

OTHER BUSINESS

Planning & Zoning recognition.

Commissioner Bob Leingang is presented with a City of Mandan Certificate of Appreciation for 40 years as a Planning & Zoning Commissioner.

Commissioner Renner motions to adjourn. Commissioner Knoll seconds. Motion passes unanimously.

Meeting adjourns at 6:08 p.m.

PUBLIC HEARING # 1

PUBLIC HEARING # 1

Mandan Planning and Zoning Commission Agenda Item PH1
 For Meeting on April 22, 2019
 Mandan Engineering and Planning Office Report
Evergreen Heights 3rd Addition
 Requested Action
Annexation
Zoning Amendment
Preliminary Plat

Application Details				
Applicant	Owner	Subdivision	Legal Description	
Val Renner/Janet Dykshoorn	Val Renner/Janet Dykshoorn	Evergreen Heights 3 rd Addition (proposed)	Part Of Lot B Of Auditor's Subdivision And All Of Lot A And Lot B Of Lot B Auditor's Subdivision And Lot 1 Block 1 Evergreen Heights Southwest 1/4 Section 35, Township 139 North, Range 81 West City Of Mandan, Morton County, North Dakota	
Location		Proposed Land Use	Parcel Size	Number of Lots
City of Mandan		Contractor Shops	9.81 acres total	5 (proposed)
Existing Land Use	Adjacent Land Uses	Current Zoning	Proposed Zoning	Adjacent Zoning
Undeveloped/Single-family home	Residential/Undeveloped/Church	Agriculture	CA – Neighborhood Commercial; RM – Residential	R-7 Residential
Fees	Date Paid	Adjacent Property Notification Sent	Legal Notices Published	
\$1,300	March 22, 2019	April 5, 2019	4/12/2019 & 4/19/2019	

Project Description

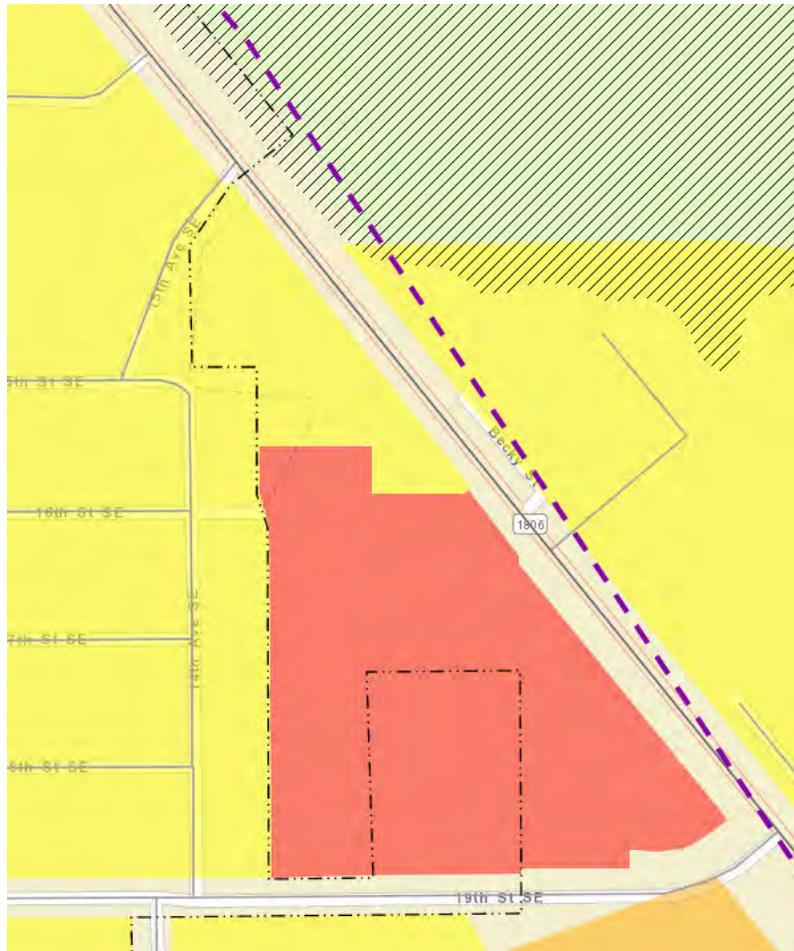
Val Renner and Janet Dykshoorn are seeking to plat their property near 19th St. SE and S. 1806 for the purposes of commercial and residential development. The property in question totals 9.81 acres.

Mr. Renner would like to erect a shop condos for his landscaping and similar contractor businesses on Lot 3, Block 1 of the proposed plat (See Exhibit 2 and 3). No residential uses are desired on that lot. Ms. Dykshoorn would like to maintain her single-family dwelling on Lot 2, Block 1.

Lots 1 through 3, Block 1 and Lot 1, Block 2 are seeking CA – Neighborhood Commercial zoning and Lot 1, Block 3 is seeking RM – Multi-family Residential with a restriction to four units per acre (8 dwelling units max based on acreage of Lot 1, Block 3).

Numerous meetings were held with Mr. Renner or his surveyors/engineers to understand their intention for the property as far as precise use and timing of the proposed development. At this time, Mr. Renner has no plans to further develop the properties other than Lot 3, Block 1. Lot 1, Block 1, Lot 1, Block 2, and Lot 1, Block 3 would likely be listed for sale and developed at a future time.

The future land use per the Mandan Land Use & Transportation Plan is commercial (red) and low density residential (yellow).



The development proposed aligns with the plan for the city. While the areas designated commercial on the proposed development do not overlay precisely with the future land use it should be understood that the plan designations are appropriate in very close proximity and some adjustment is warranted.

However, adjacent property uses must be considered to ensure that harmonious development occurs and that any commercial development is not too intrusive to the preexisting residential subdivisions in the vicinity. CA – Neighborhood Commercial District is very permissive and without additional restrictions could result in neighbors being negatively impacted by any certain commercial uses.

To ensure a harmonious commercial development with the adjacent residential development a list of recommended zoning restrictions for each lot either by request of the applicant or by staff is provided in Exhibit 6.

Case in point, several letters were received from adjacent property owners concerned about the development and its impact on property values and changes to character to the area. These can be found in Exhibit 4.

Staff does believe the restricted uses outlined in Exhibit 6 for each lot will address many of the concerns from property owners.

Agency & Other Department Comments

Several external agency and internal department comments were received. They are included in Exhibit 5.

Engineering & Planning Staff Comments

Engineering and Planning have included a list of zoning restrictions and desire a development agreement to outline infrastructure improvements (See Exhibit 6)

Engineering & Planning Recommendation

Engineering and Planning recommend approval of the request for annexation, zone change, and preliminary plat subject to:

- Zoning restrictions and establishment of a Development Agreement outlining the timing of infrastructure improvements as outlined in Exhibit 6
- Necessary local right-of-way dedications for 16th St. SE and “Future Street”
- Street dedications for S. 1806 per North Dakota Department of Transportation
- A 10’ utility easement along S. 1806 shall be included as well.

Proposed Motion

Move to recommend approval of the request for annexation, zone change, and preliminary plat subject to:

- Zoning restrictions and establishment of a Development Agreement outlining the timing of infrastructure improvements as outlined in Exhibit 6
- Necessary local right-of-way dedications for 16th St. SE and “Future Street”
- Street dedications for S. 1806 per North Dakota Department of Transportation
- A 10’ utility easement along S. 1806 shall be included as well.

List of Exhibits:

Exhibit 1 – Application

Exhibit 2 – Applicant Letter of Intent

Exhibit 3 – Evergreen 3rd Preliminary Plat

Exhibit 4 – Neighboring property owner letters

Exhibit 5 – Internal Department/External Agency Review Comments

Exhibit 6 – List of Zoning Restrictions and Development Agreement Requirements, if Approved

EXHIBIT 1

CITY OF MANDAN			
Development Review Application			
<input type="checkbox"/>	Minor Plat (\$300)	<input checked="" type="checkbox"/>	Zone Change (\$600) <input type="checkbox"/>
<input checked="" type="checkbox"/>	Preliminary Plat up to 20 acres (\$350)	<input type="checkbox"/>	Planned Unit Development (\$700)
<input type="checkbox"/>	Preliminary Plat more than 20 acres (\$400)	<input type="checkbox"/>	Zone Change with Minor Plat (\$400)
<input type="checkbox"/>	Final Plat up to 20 lots (\$350)	<input type="checkbox"/>	Vacation (\$500)
<input type="checkbox"/>	Final Plat 21 to 40 lots (\$475)	<input type="checkbox"/>	Variance (\$400)
<input type="checkbox"/>	Final Plat more than 40 lots (\$700)	<input type="checkbox"/>	Special Use Permit (\$450)
<input checked="" type="checkbox"/>	Annexation (\$450)	<input type="checkbox"/>	Stormwater submittal (\$300)
<input type="checkbox"/>	Annexation with Minor Plat (\$200)	<input type="checkbox"/>	Stormwater 2 nd & subsequent resubmittal (\$50)
Summary of Request Applicant requests to plat, annex and change the zoning for the property shown on the enclosed preliminary plat. Request to change from the county ag zoning to CA - Neighborhood Commercial for Lots 1-3, Block 1 and Lot 1, Block 2 and RM - Residential District for Lot 2, Block 3.			

Engineer/Surveyor			Property Owner or Applicant		
Name Feser Engineering, PC SES Geomatics			Name Val Renner Janet Dykshoorn		
Address 1217 N 1st Street 2321 Harding Avenue			Address 4655 Hwy 6 1601 Hwy 1806 S		
City	State	Zip	City	State	Zip
Bismarck	ND	58501	Mandan	ND	58554
email			email		
greg@fesereng.com ljs2363@midco.net					
Phone		Fax	Phone		Fax
400-2801 220-9843			426-0522		
If the applicant is not the current owner, the current owner must submit a notarized statement authorizing the applicant to proceed with the request.					

Location		Type		Existing Zone	Proposed Zone	Project Name	
<input checked="" type="checkbox"/>	City	<input type="checkbox"/>	ETA	<input checked="" type="checkbox"/>	New	<input checked="" type="checkbox"/>	Addition
				AG	CA and RM	Evergreen Heights 3rd Addition	
Property Address				Legal Description			
1601 Hwy 1806 S				PART OF LOT B OF AUDITOR'S SUBDIVISION AND ALL OF LOT A AND LOT B			
Current Use				Legal Description			
Rural residential home and agricultural use.				SOUTHWEST 1/4 SECTION 35, TOWNSHIP 139 NORTH, RANGE 81 WEST			
Proposed Use				Legal Description			
A site plan will be prepared for construction of shop condos on Lot 3, Block 1.				CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA			
Section 35		Township 139		Range 81			
Parcel Size	Building Footprint	Stories	Building SF	Required Parking		Provided Parking	
9.81 Acres							

Print Name Valan C. Renner	Signature <i>Valan C. Renner</i>	Date 3-20-2019
<i>Janet Dykshoorn</i>	<i>Janet Dykshoorn</i>	3-27-2019
Office Use Only		
Date Received: 3/22/2019	Initials: YMM	Fees Paid: \$ 1400
Notice in paper	Mailed to neighbors	Date 3/22/2019
<input type="checkbox"/> Approved	Approved with conditions:	
<input type="checkbox"/> Denied		

Updated 1/1/2019

N:\PLANNING & ZONING\Development Application - January 2019.docx

EXHIBIT 2

April 8, 2019

City of Mandan
Attn: John Van Dyke
205 2nd Avenue NW
Mandan, ND 58554

RE: Evergreen Heights 3rd Addition Plat

Dear Mr. Van Dyke:

This letter is to provide some additional information on the intended uses of the property within the plat.

The initial purpose of the plat was to be able to construct a building for shop condos on Lot 3 Block 1. This building would consist of 5-30'x50' shops and one 20'x20' office. The office and one of the shop condos will be occupied by my own business, Renner's Lawn Sprinkling. The other four shop condos would be rented out to small businesses such as plumbers, electricians, landscapers, tapers, roofers, carpenters, heating and cooling, etc. Each shop condo will have a private restroom. There will be no living quarters or man caves. In the future I may add an additional building on this lot for 2 or 3 shops if there is adequate square footage after meeting setback requirements.

Currently, I have no intentions of developing Lot 1 Block 1, Lot 1 Block 2 or Lot 1 Block 3. I am aware there are several homeowners adjacent to Lot 1 Block 3 that are concerned as to what might happen to this property. Due to the dimensions of Lot 1 Block 3 it only makes sense to eventually build single family homes or twin homes with a density of approximately 4 homes per acre.

Please let me know should you have any questions.

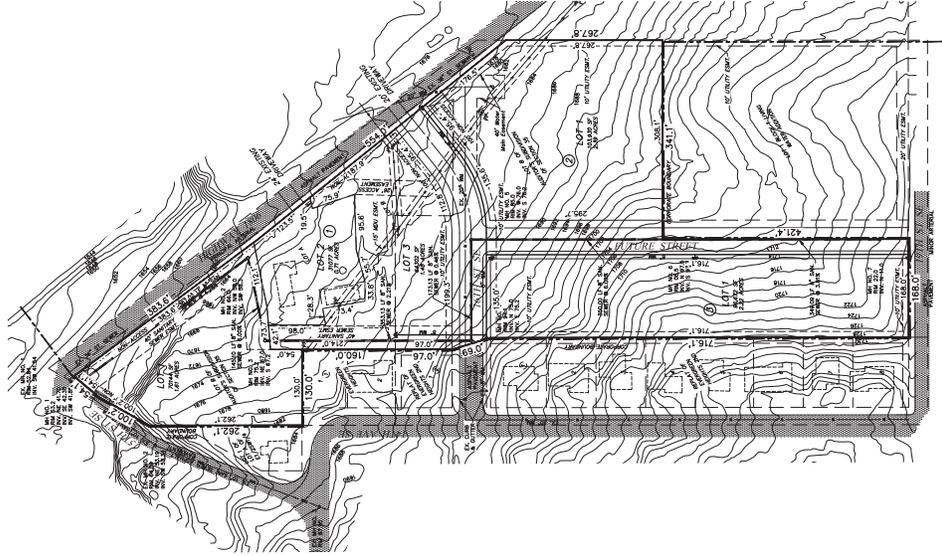
Sincerely,

A handwritten signature in black ink, appearing to read "Val Renner". The signature is written in a cursive style with a large initial "V" and "R".

Val Renner

EVERGREEN HEIGHTS THIRD ADDITION

PART OF LOT B OF AUDITOR'S SUBDIVISION AND
 ALL OF LOT A AND LOT B OF LOT B AUDITOR'S SUBDIVISION AND
 LOT 1 BLOCK 1 EVERGREEN HEIGHTS
 SOUTHWEST 1/4 SECTION 35, TOWNSHIP 139 NORTH, RANGE 81 WEST
 CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA



LOCATION MAP



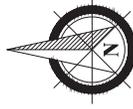
OWNER:
 ADDRESS:
OWNER:
 ADDRESS:
ZONED:
 ACRES:
PROPOSED ZONING:

JANET DYKSHOORN
 1601 HWY 1806 S
 MANDAN, ND 58554

VIL REYNOLDS
 4655 HWY 6
 MANDAN, ND 58554

AGRICULTURE - MORTON COUNTY
 9.87 ACRES

CA - NEIGHBORHOOD COMMERCIAL



100' 0 100' 200'
 SCALE - 1"=100'
 MARCH 21, 2019



PRELIMINARY-NOT FOR CONSTRUCTION,
 RECORDING PURPOSES OR IMPLEMENTATION.

4-17-19

EXHIBIT 4

Tom Fenderer
1908 14th Ave SE

I would like to see the
Area next to our lots
in Evergreen Height remain
single family dwellings.
It would help our homes
retain their values and
keep the neighborhood
fairly quiet.

Thanks

TO WHOM IT MAY CONCERN!

I AM JOAN STUMPF AND

I OWN A HOME IN

EVERGREEN HEIGHTS IN MADON.

I HEARD MANY THINGS THAT

WILL BE BUILT HERE.

I FEEL THIS SHOULD STAY

RESIDENTIAL HOMES - THAT IS

WHAT WE BUILT A HOME

HERE - WHY SHOULD IT BE

ZONED FOR OTHER USES!

THAT IS NOT RIGHT!

HOPEFULLY IT WILL STAY

RESIDENTIAL PROPERTY.

THANK YOU -

MRS. STUMPF

Eunadelle Nardello
1912 14th Ave. S E
Mandan, N D 58554

April 17, 2019

Engineering + Planning Dept.
City Hall
205 2nd Ave. N W
Mandan, N D 58554
att: John Van Dyke

Dear John,

I am a concerned resident of Evergreen Hgts.
3rd addition in Mandan, N D. I am requesting
to keep the zoning in that area as R ~~2~~ 4,
single family homes. My concerns are
heavy traffic, noise + safety issues. I hope
you can understand my concerns.

Sincerely,

Eunadelle (Bell) Nardello

P.S. I am also very concerned that multi-family
homes would decrease the value of my home.

Thomas and Margaret Stadick
1814 14th Ave. SE
Evergreen Heights 2nd Addition

Re: Rezoning Evergreen Heights 3rd Addition

To: City of Mandan Planning & Zoning Commission

Thank you for the opportunity to voice our ideas and concerns regarding the proposed rezoning of Evergreen Heights 3rd addition. These zone changes would impact the lives of the families in this neighborhood as well as the value of our homes. Also, thank you to the Planning & Zoning department and to Mr. Renner their your informative letters; and to Mr. Van Dyke for his time and involvement.

We have no opposition to Mr. Renner's and Mrs. Dykshoorn's proposed plans for Block 1 lots 1-3. However, we are opposed to Lot 1 block 2 being zoned commercial and would prefer Lot 2 Block 3 be zoned R7 residential – single family homes on single lots.

The drive, or walk, along this area of Highway 1806 is beautiful and serene and is a nature setting. This afternoon we watched seven wild turkeys in the lot proposed commercial (Lot 1 block 2). This land is located adjacent to the walking path and is quite sheltered from the wind. It is a beautiful location for an arboretum: a meandering trail through a planted woodland with identification to a multitude of trees, shrubs, plants, and perhaps birding information. It could also showcase symbols depicting the City of Mandan's past, present and future. It may include a picnic area and lead to an alternate walking path along 15th Avenue (proposed) to the 19th Street walking path. The park board has done a great job providing parks throughout Mandan; however, the character and location of this lot would be perfect for a multi-use park (possibly with tennis courts). It would provide a beautiful, accessible area for the entire community to play and enjoy the outdoors.

If this lot is zoned commercial in a residential area, any business should be neighborhood friendly and safe; therefore, restricted noise pollution and limited hours of operation (daytime only). In order to maintain the neighborhood's awesome panoramic view (day and night), it is important to adhere to the CA zone height limit: "No building shall exceed two stories, nor shall it exceed 25 feet in height", and mitigate light pollution.

Regarding Lot 2 block 3 being zoned residential, we strongly believe this subdivision should be consistent with Evergreen Heights 1st and 2nd additions. This lot should be restricted to single family dwellings on single lots; no twin homes, two-family, multifamily, or group dwellings allowed. Another major concern is the view shed easement. We would like the height limit revised to 2 stories and not to exceed 25 feet from the original elevation of the front (east) side of the lot.

Thank you again for considering our concerns and ideas. We appreciate the city's diligence to develop the "future Mandan" while maintaining the integrity of the neighborhoods. If you have any questions please feel free to contact us at 701-891-8659 or mlstadick@gmail.com.

Sincerely,
Thomas and Margaret Stadick

cc: Val Renner

Tim and Carla Tausend
1712 14th Ave SE, Mandan, ND 58554
701-426-3472, tttausend@gmail.com

Dear Members of the Mandan Planning and Zoning Commission:

My family has lived at 1712 14th Ave SE since July of 2001. I understand Mr. Val Renner has petitioned for the parcel of land generally due northeast of my residence to be zoned commercial and has no immediate plan for the area immediately to the east of my residence.

I oppose this entire parcel of land to be zoned anything but single family dwelling. Mr. Renner's parcel of land is essentially surrounded by properties that are currently zoned R7 Residential Single Family. The land even across the Highway 1806 which is due east of Mr. Renner's property is zoned R7.

I am not certain when the originating thought came that this parcel of land should be zoned commercial, but I believe there currently is only one parcel of commercial property in this development which is a storage facility just north of this existing site. That site commercializes an area that should also have been zoned residential, but that is water under the bridge. I don't want to see the proposed area that Mr. Renner has identified to leave the same look of a commercial zone.

If any development is to occur, it should be zoned a single family residential area just as the rest of our neighborhood is currently zoned. I do not support multi-family housing for this area, including twin homes. It increases traffic flow and does not fit the existing developed area in my immediate neighborhood.

I also believe multi-family housing would devalue my property. I believe the existing Dykshoorn Greenhouse parcel is currently zoned agricultural. My concern is that if commercial zoning is allowed with Mr. Renner's parcel that it would then have a foothold and expand even further to the north.

If any annexation does occur, I believe the old Dykshoorn Greenhouse parcel should also be reviewed for the purpose of zoning. This parcel has a single family home on it and the business which at one time was viable is no longer in operation. It appears to look like a R7 zone to me.

I thank you for the opportunity to share my thoughts and concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Tausend', written over a horizontal line.

Tim and Carla Tausend

EXHIBIT 5

April 4, 2019 Pre-planning Notes

Attendance: Brad Glass, Brian Dirk, Steve Nardello, Becky Naslund, Matt Westick, John Van Dyke

Evergreen Heights 3rd preliminary plat, zone change and annexation

John – The intent is to divide into different lots for a combination of residential and commercial development. Lot 3 would have shop condos. There is a current resident on Lot 2 who will stay there. Lot 1, Block 2 was the subject of the crematorium discussion. Lot 1, Block 3 would be zoned R3.2. They want to delay connecting 16th Street. That is still in discussion.

Fire Department - Steve – Road has to be part of the plat. Wants to see it go in.

Engineering and Planning - John – The adjacent property owners were opposed to any commercial when a previous proposal came in. They are more than likely still opposed. He will talk to Malcolm about a development agreement to get the road in.

Public Works - Utilities - Brad – Wants to know if they will extend water lines so the church can finally have access to water. Will they tie into the church? Wants to see the water line loop down Future Street.

Fire Department - Steve – Needs an accessible fire hydrant. Is the line going to come from the north?

Becky, MDU – They want a 10' utility easement on the east property lines along 1806. It would also be nice to have an easement on the west property line of Lot 1, block 2 along Future Street.

Engineering and Planning - John – NDDOT may want additional right of way along 1806. Thinking of adding no-access lines to the north and south property lines of Lot 1, Block 3. Access should be forced by way of Future Street. Would like them to do the whole road (16th). He will send a drafted developer's agreement to everyone for review.

EXHIBIT 6

Recommended Zoning Restrictions by Lot/Block

And

Development Agreement outlining Infrastructure Timing for Construction

Lot 1, Block 1

- a. Single-family dwelling.
- b. Two-family dwelling.
- c. Multifamily dwelling.

Office-bank Group Uses

Insurance or real estate;

Private company - Shop condos for contractor-related activities to include:

- Landscaping, electrician, plumbing, HVAC, drywall taping, and;
- Carpenters, where no milling, cutting, or other wood machining is conducted

Professional services;

Lot 2, Block 1

- a. Single-family dwelling.
- b. Two-family dwelling.
- c. Multifamily dwelling.

Office Use Group Uses

Insurance or real estate;

Private company - Shop condos for contractor-related activities to include:

- Landscaping, electrician, plumbing, HVAC, drywall taping, and;
- Carpenters, where no milling, cutting, or other wood machining is conducted

Professional services;

Lot 3, Block 1

Office-bank Group Uses

Insurance or real estate;

Private company - Shop condos for contractor-related activities to include:

- Landscaping, electrician, plumbing, HVAC, drywall taping, and;
- Carpenters, where no milling, cutting, or other wood machining is conducted

Professional services;

Lot 1, Block 2

Office-bank Group Uses

Insurance or real estate;

Private company - Shop condos for contractor-related activities to include:

- Landscaping, electrician, plumbing, HVAC, drywall taping, and;
- Carpenters, where no milling, cutting, or other wood machining is conducted

Professional services;

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;
- t. Pets and pet supplies with associated grooming and dog daycare services;

Service Group A Uses

- a. Barber or beauty shop;
- b. In shop repair of carry in items;
- c. Dressmaker, milliner or tailor;
- d. Dry cleaning, laundry or laundromat;
- e. Furniture repair or upholstering;
- f. Pet hospital or clinic;
- g. Pet grooming and dog daycare;
- h. Shoe and other leather goods repair;
- i. Private club, lodge hall, union headquarters; and
- k. Undertaking establishment, mortuary or funeral home.

Lot 1, Block 3

Not to exceed 4-units per acre

a. Single-family dwelling, not to include twin-home construction.

Development Agreement Provisions

- Existing approach serving Lot 2, Block 1 directly onto 1806 shall be vacated upon transfer of ownership and construction of 16th St. SE.
- 16th St. SE shall be constructed within twelve months of the transfer of ownership of Lot 2, Block 1
- Lot 3, Block 1 shall utilize the existing approach onto S 1806 until 16th St. SE is constructed.
- No certificate of occupancy shall be granted for Lots 1, Block 2 or Lot 1, Block 3 until “Future Street” is constructed.
- Both Lot 1, Block 2 and Lot 1, Block 2 shall take access onto “Future Street”; not 16th St. SE or 19th St. SE.
- Waterline will loop through “Future Street” and be installed at the time of “Future Street” construction.

List of All Uses within the Retail Group A, Service Group A, and Office Use Group (For Reference Only)

Office-bank Group Uses

The following are examples of office group uses:

- a. Bank, credit union or financial services company;
- b. Commercial school including business, secretarial, dancing, music, physical culture, technical or trade;
- c. Governmental services;
- d. Insurance or real estate;
- e. Private company;
- f. Professional services;
- g. TV or radio station broadcast studio; and h. Utility company.

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;
- t. Pets and pet supplies with associated grooming and dog daycare services;
- u. Medical marijuana dispensary; and
- v. Fireworks stand.

Service Group A Uses

- a. Barber or beauty shop;
- b. In shop repair of carry in items;
- c. Dressmaker, milliner or tailor;
- d. Dry cleaning, laundry or laundromat;

- e. Furniture repair or upholstery;
- f. Pet hospital or clinic;
- g. Pet grooming and dog daycare;
- h. Shoe and other leather goods repair;
- i. Private club, lodge hall, union headquarters; and
- k. Undertaking establishment, mortuary or funeral home.

Uses allowed in CA – Neighborhood Commercial

- a. Single-family dwelling.
- b. Two-family dwelling.
- c. Multifamily dwelling.
- d. Group dwelling.
- e. Retail group A.
- f. Service group A.
- g. Filling station.
- h. Office-bank group.
- i. Health-medical group.

PUBLIC HEARING #2

PUBLIC HEARING #2

Mandan Planning and Zoning Commission Agenda Item PH2
 For Meeting on April 22, 2019
 Mandan Engineering and Planning Office Report
Murals
 Requested Action
Ordinance Text/Map Amendment

Application Details				
Applicant N/a	Owner N/a	Subdivision N/a	Legal Description City of Mandan	
Location City of Mandan		Proposed Land Use N/a	Parcel Size N/a	Number of Lots N/a
Existing Land Use N/a	Adjacent Land Uses N/a		Current Zoning N/a	Proposed Zoning N/a
Fees N/a	Date Paid N/a	Adjacent Property Notification Sent N/a	Legal Notices Published 4/12/2019 & 4/19/2019	

Project Description
The mural ordinance is currently in-process of being re-written to reflect suggested changes by Attorney Brown.
Agency & Other Department Comments
Engineering and Planning recommend tabling the mural ordinance to the May Planning and Zoning Commission meeting date.
Proposed Motion
I move to table the mural ordinance to the May 29, 2019 Planning and Zoning meeting.

List of Exhibits: N/a

PUBLIC HEARING #3

PUBLIC HEARING #3

Mandan Planning and Zoning Commission Agenda Item PH3
 For Meeting on April 22, 2019
 Mandan Engineering and Planning Office Report
City of Mandan – Telecommunications (Small Cell)
 Requested Action
Ordinance Text/Map Amendment

Application Details				
Applicant N/a	Owner N/a	Subdivision N/a	Legal Description City of Mandan	
Location City of Mandan		Proposed Land Use N/a	Parcel Size N/a	Number of Lots N/a
Existing Land Use Mixed	Adjacent Land Uses N/a	Current Zoning N/a	Proposed Zoning N/a	Adjacent Zoning N/a
Fees N/a	Date Paid N/a	Adjacent Property Notification Sent N/a	Legal Notices Published 4/12/2019 & 4/19/2019	

Project Description

The telecommunications ordinance surrounds small cell (5G) attachments to city-owned infrastructure within the right-of-way. It also adds a special use permit requirement to traditional towers exceeding 120' in height.

Due to the length of the ordinance, a **green highlighted** summary is provided outlining the basic elements that each section addresses (See the proposed ordinance in Exhibit 1).

5G Telecommunication facilities:

The City of Mandan was approached several months ago with regard to placement of infrastructure necessary to provide customers with 5G wireless service. The infrastructure is known as “small cell” technology, which is much smaller than a traditional cellular tower. They are small enough to be attached to other infrastructure that is typically located within the public right-of-way, such as street or traffic light poles, larger street signs, etc. They service a much smaller geography and therefore require a higher concentration than a standard tower.

This ordinance outlines the requirements that must be met in order for a small cell to be placed within the public right-of-way, as well as within each zoning district. The ordinance provides standards for small cells attached to existing poles within the right-of-way, city-owned buildings, and privately owned buildings. Fees and process are established by reference to the Wireless Facilities Guidelines (See Exhibit 2). The fees were selected based on what is deemed reasonable by the Federal Communications Commission (FCC). The fees are permitted to be higher, although any amount selected needs to be justified. At this time, the fees shown in the Wireless Facilities Guidelines appear to be reasonable.

Staff, including Principal Planner John Van Dyke, Engineering and Planning Director Justin Froseth, Public Works Director Mitch Bitz, City Administrator Jim Neubauer, and City Attorney Brown met to discuss the creation of the ordinance and associated guidelines. The ordinance is largely borrowed from City of Bismarck, ND, with a few necessary modifications in order to embed within City of Mandan code.

The modifications also include changes following review and comment by Verizon Wireless staff and Commissioner Laber.

Other telecommunication:

While working through the ordinance changes related to telecommunications, limitations to the height of telecommunication transmissions towers has also been added. Presently, telecommunications transmission towers are exempt from height limitations and in some districts do not require a conditional use permit. This opens the door to the erection of these structures adjacent to residential development with limitless height. The proposed changes would require towers exceeding one-hundred-twenty (120) feet to obtain a conditional use permit. The height of one-hundred-twenty feet was determined based on several in Mandan today and ordinances in other communities.

Agency & Other Department Comments

5G Telecommunication facilities/Other telecommunication:

As noted above, Engineering and Planning, Public Works, Administrator Neubauer, and Attorney Brown are in favor with the proposed changes.

Engineering & Planning Staff Comments

5G Telecommunication facilities/Other telecommunication:

Engineering and Planning believe this will establish a firm foundation to process these applications and facilitate this technology in the best interest of the residents of the City of Mandan.

Engineering & Planning Recommendation

Engineering and Planning recommend approval of the zoning amendment as presented.

Proposed Motion

Move to recommend approval of Ordinance 1301 as presented in Exhibit 1.

List of Exhibits:

- Exhibit 1 – Ordinance 1301 – Telecommunication Facilities
- Exhibit 2 – Wireless Facilities Guidelines
- Exhibit 3 – Pictures of Small Cells Wireless Infrastructure

EXHIBIT 1

ORDINANCE NO. XXXX

An Ordinance to Amend and Re-enact portions of Subpart B – Land Development and Public Services of the Mandan Municipal Code related to communications facilities within the right-of-way and telecommunication transmission tower height limitations without first securing a conditional use permit

WHEREAS, The City of Mandan is committed to facilitating the provision for residents' wireless service needs

WHEREAS, Infrastructure necessary to provide for future services may require placement within publicly owned right-of-way

WHEREAS, Care must be taken in order to preserve the integrity of the variety of services supplied through the public right-of-way

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

Section 1 renames the chapter to reflect the right-of-way, as the street is one possible piece of infrastructure contained in a right-of-way.

Section 1. Chapter 115 is hereby renamed as follows:

Chapter 115 – STREETSRIGHT-OF-WAY

Section 2 establishes the reasoning behind the ordinance

Section 2. Enacted. Section 115-10-1 relating to Purpose is hereby enacted to read as follows:

115-10-1 Purpose

To ensure that residents, businesses and public safety operations in the city have reliable access to wireless telecommunications network technology and state of the art mobile broadband communications services, the city desires to accommodate the deployment of wireless

communications facilities and services within the public right-of-way. The city also desires to minimize potential negative impacts of wireless facility placement within the public right-of-way. This article applies only to installation in the public right-of-way. All other installations are governed by Chapter 105 of this ordinance, and all other applicable laws and regulations. The impact of wireless facilities can be reduced by maintaining standards and objectives for location, visual impact, structural integrity, compatibility, colocation, and the like, which do not unreasonably discriminate among similar users.

Nothing in this chapter affects the city's right to regulate users of the public right-of-way in a neutral and nondiscriminatory manner. The city intends to exercise its authority with respect to the regulation, placement, construction and modification of wireless facilities in the public right-of-way to the fullest extent permitted by applicable law.**115-10-1 Purpose**

Section 3 provides the definitions to refer to throughout the ordinance.

Section 3. Enacted. Section 115-10-2 relating to Definitions is hereby enacted to read as follows:

115-10-2 Definitions

For purposes of this article, the following definitions apply. References to "sections" are, unless otherwise specified, references to sections in this article.

Antenna means a device used to transmit and/or receive radio or electromagnetic waves for the provision of communication services including, but not limited to, cellular, paging, personal communications services and microwave communications. Such devices include, but are not limited to small wireless facility antennas, small cell antennas, remote radio heads, directional antennae, such as panel antennas, microwave dishes, and satellite dishes; omnidirectional antennae; and wireless access points (Wi-Fi), including strand-mounted wireless access points.

Applicant means any person who applies for a permit under this article.

Attachment includes any wireless communication facility affixed to, contained in, or placed on or in a structure within the city's public right-of-way.

City means the City of Mandan.

City Engineer means the Mandan City Engineer or his or her designee.

City-Owned Structure means an existing structure owned by the city that is located in the city's public right-of-way. It does not mean State, County or other government entity owned infrastructure within the public right-of-way. It does not mean infrastructure owned by a public utility. It does not mean infrastructure located outside of the public right-of-way or on right-of-way which the city does not control.

Colocation means the mounting or installation of new wireless communication facilities on or within an existing wireless support structure.

Construction Plan means a written plan, and a collection of documents, for construction that:

- (i) demonstrates to the satisfaction of the city engineer that the aesthetic impact and physical structure of the wireless communication facility is comparable to prevailing standards of similar structures in the immediate area;
- (ii) includes the identity and qualifications of each person directly responsible for the design and construction;
- (iii) includes signed and sealed documentation to proportional scale from a professional engineer licensed in North Dakota describing the proposed wireless communication facilities in detail, including
 - a. the proposed location of the wireless support structure and all easements, property boundaries, and existing structures within on the same side of the roadway and within fifty (50) feet of such wireless facility or wireless support structure unless a different distance is specified by the city engineer;
 - b. a structural, loading, and wind-speed analysis for existing, proposed, and reserved loading, and
 - c. a schematic describing the communications properties of the facility, including EMF and RF propagation and off-site data connections; and
- (iv) includes such other information as the city engineer may require.

EMF means electromagnetic frequency.

Equipment means accessory equipment serving or being used in conjunction with an antenna or wireless communication facility. Equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables and conduit, equipment buildings, cabinets, storage sheds, shelters, and vaults.

Existing Height means the height of a structure, including wireless communications facilities, as originally approved or as of the most recent approved modification. Height shall be measured from natural grade to the top of all appurtenances.

Existing structure means a structure located in the public right-of-way and capable of supporting wireless communication facilities, erected prior to the application for colocation or substantial modification under this article. An existing structure includes a replacement of an existing structure that is proposed to accommodate the colocation of a wireless communication facility, as

long as the replacement structure is substantially similar in appearance to the existing structure and is no taller than the existing height of the structure to be replaced.

Ground-Mounted Equipment means any equipment that is affixed to the ground and extends above the natural grade.

Guidelines or Wireless Facility Guidelines means any procedure or description from the city engineer, which may be modified and amended from time to time, concerning wireless facility application process and siting requirements. Any such Wireless Facilities Guidelines shall be consistent with this article.

Interference means any material and harmful impairment, physically or electronically of the operation, views, signals or functions of city property or third party property.

Laws means any and all applicable federal and state laws and applicable local ordinances, resolutions, regulations, administrative orders or other legal requirements.

Land Development Code means the Subpart B – Land Development and Public Services of the Code of Ordinances of the City of Mandan, North Dakota.

MAA means a master attachment agreement between the city and a lessee that defines the general terms and conditions which govern their relationship with respect to particular sites at which the city agrees to permit lessee to install, maintain, and operate communications equipment on existing or new city owned infrastructure.

Installation Permit Holder means any person that has obtained permission through the issuance of an installation permit from the city under this article to locate, install or place wireless facilities in the public right-of-way.

Person means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

Public Right-of-Way means the area on, below, or above a public roadway, highway, street, cart way, bicycle lane and public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

RF means radio frequency.

Site or Premises means the area occupied by the wireless support structure, the wireless communications facility, accessory equipment, ground-mounted equipment, and the path of the wire or conduit connecting to an off-site network.

Wireless Communication Facility means any fixed tangible asset usable for the purpose of providing wireless transmission of voice, data, images or other signals or information including, but not limited to, telecommunications, cellular telephone service, personal communications service and paging service. A wireless communications facility includes antennas and accessory equipment. A wireless communications facility does not include an underlying wireless support structure.

Wireless Support Structure means any fixed, above-grade structure in the public right-of-way used to house or support wireless communications facilities and equipment.

Section 4 notes that existing poles and structures will be the priority and that an MAA and permit is required.

Section 4. Enacted. Section 115-10-3 relating to Locating Wireless Communication Facilities is hereby enacted to read as follows:

115-10-3 Locating Wireless Communication Facilities

The location of any new wireless communication facility in the public right-of-way shall be prioritized to locate on existing structures, such as utility poles through agreement with the pole owner, or street lights, or the replacement of an existing structure as provided herein. Installation of wireless support structures for the purpose of supporting a wireless communication facility within the public right-of-way will be permitted only as deemed appropriate by the city engineer and the applicant must have a franchise agreement with the city for the use of the public right-of-way, MAA, or an encroachment agreement for that specific location and an installation permit.

Section 5 provides four different means by which a wireless facility may be placed in the right-of-way. This section also outlines the necessary additional submittals that must be included with an application for placement of these facilities. This includes an application fee as outlined in the Wireless Facility Guidelines and allows for engineering to subcontract the evaluation similar to what is currently done for stormwater reviews for plats in some instances. This section also encourages colocation and requires the facilities to be installed within 12 months of permit issuance.

Section 5. Enacted. Section 115-10-4 relating to Installation Permit Required is hereby enacted to read as follows:

115-10-4 Installation Permit Required

a. No person may construct, install or modify a wireless communication facility within the public right-of-way without having first done one of the following:

1. Having entered into an MAA with the city, if the wireless communication facility will be installed on city owned existing or new infrastructure.

2. Having obtained a franchise from the city allowing use of the public right-of-way.
3. Having obtained an encroachment agreement allowing the specific occupation of the public right-of-way.
4. Having entered into an agreement to co-locate with an entity with infrastructure in the right-of-way pursuant to a current franchise. In each case, the person must also obtain an installation permit from the city engineer as set forth in this chapter.

b. Installation Permit Issuance. Before a Site License, if applicable, is agreed upon and an installation permit is issued, a written application for each site must be filed with the city engineer containing such information as may be required by the city engineer. The application shall include the following:

1. Information required to be provided by a registrant for public right-of-way use and occupancy under this chapter.
2. The name and address of any retail communications service provider for which the facilities are intended to be used, if this is different than the applicant.
3. Evidence that the applicant has obtained all state permits and other licenses, as well as insurance, performance and payment bonds as may be required by the city engineer.
4. A detailed map, including a digital shapefile, of the location of all proposed facilities for which the permit is sought.
5. A construction plan and profile, if requested.
6. Other information required by this article.

c. Fees. The city may require payment of a nonrefundable installation permit application fee at the time an installation permit application is submitted, as approved by the Board of City Commission and adopted in the Wireless Facilities Guidelines. Such fees shall be set to recoup some or all of the cost of permit review, processing and issuance, and will be in addition to any other applicable fee or any separate payments that may be required in the event an installation permit is granted for use of the public right-of-way or the use of city-owned structures. The city reserves the right to charge applicants for installation permits and a fee for their use of the public right-of-way to the extent that such charges are allowed under state law. All such fees shall be described in the Wireless Facility Guidelines and may be in addition to any fee charged for or cost associated with attachment to city-owned structures.

d. Where the city determines that it requires expert assistance in evaluating an application, the city may procure technical and other specialized consulting services that may be necessary to

promptly and thoroughly review the application. Reasonable fees charged by the consultant, in an amount not to exceed \$500 for up to five sites and \$100 for each additional site thereafter, shall be reimbursed to the city by the applicant regardless of whether the application is, or is not, ultimately approved and a permit issued. The city shall be authorized to require the applicant to deposit a sum equal to the reasonable estimated amount of consultant fees to be paid.

e. Time for Review. The city engineer shall comply with applicable federal, state and local law concerning the time period for review following receipt of a completed application to install or modify a wireless communications facility or wireless support structure in the public right-of-way. Specific timeframes shall be described in Wireless Facility Guidelines.

f. Nondiscrimination. The city shall evaluate, issue, and deny permit applications under this article on a neutral basis, with no unreasonable discrimination among similarly situated applicants and installations.

g. The city engineer may impose additional reasonable conditions on any installation permit issued under this article relating to time, place and manner.

h. The city shall not impose environmental testing, sampling, or monitoring requirements or other compliance measures for RF emissions on wireless communication facilities that are categorically excluded under the FCC's rules for radiofrequency remissions pursuant to 4 CFR 1.1307(b)(1).

i. Scope and Duration.

1. Any installation permit granted pursuant to such application shall be limited in scope to the description submitted in a completed application, as modified by any further agreed-upon conditions or subsequently approved modification.
2. The installation permit shall be voided by the city unless in the city's determination the work is commenced within one hundred eighty (180) days from the date of issuance of the permit, unless extended by the city engineer. If the facility is not used for its intended use within twelve (12) months from the date of permit issuance, the city shall revoke the permit unless extended by the city engineer.
3. Within sixty (60) days following completion of facility installation as described in the permit application, the permit holder shall submit as-built diagrams in digital format and digital photographs of the Site to the city engineer. A digital shapefile shall also be provided to include such information as deemed necessary by the city engineer.
4. MAAs issued under this article are valid for a period of ten (10) years. To extend the MAA for an additional period of ten (10) years, the permit holder shall provide proof that it continues to have the legal authority to occupy and use the public right-of-way for the purpose set forth in its permit; shall affirm that its site as it exists at the time of the renewal is in full compliance with the applicable city permit or permits issued for the site, and is in compliance with FCC regulations; and shall pay any permit processing fee

required for renewal. Failure to submit such proof of legal authority or affirmation of compliance shall be grounds for non-renewal of the permit. The burden is on the permit holder to demonstrate that the site complies with the requirements herein.

j. Conditional Upon Related Agreements. The city engineer may cause a permit under this article to be made temporary or conditional upon the execution of a finalized permit application or attachment agreement further addressing the proposed installation.

k. Proximity to Other Facilities. The city reserves the right to deny, but is not obligated to deny, any siting permit application under this article that proposes to install a new wireless support structure within three hundred (300) feet of any other existing wireless support structure. It is the intent of this provision to encourage the colocation of wireless communication facilities on the same wireless support structure or on existing buildings or other structures, and to sensibly limit the overall visual impact of wireless communications in the public right-of-way.

l. Denial of Permit. Any denial of permit shall be made in writing, supported by substantial evidence that the proposed installation would be inconsistent with one or more of the provisions of the Code of Ordinances of the City of Mandan, North Dakota or with the health, safety and welfare of the city.

Section 6 provides design guidelines to ensure each facility minimizes its impact to adjacent property owners and does not interfere with necessary maintenance in the right-of-way. Requirements include antennae's can't be higher than 50ft above ground level or block a neighboring window/doorway.

Section 6. Enacted. Section 115-10-5 relating to General Conditions is hereby enacted to read as follows:

115-10-5 General Conditions

The city engineer may approve a permit for the installation of a wireless communication facility in the public right-of-way, provided the applicant certifies compliance with the following general conditions, and subject to other use-specific conditions and other requirements set forth in this article and in any Wireless Application Guidelines.

a. General Design Standards.

1. The installation shall be designed with the smallest footprint possible, be harmonious with its surroundings, and streamlined in appearance. The city engineer may require camouflage or concealment efforts. All designs of wireless communication facilities must comply with zoning requirements, including conditional/special use permitting where required, and be approved by the Mandan Architectural Review Committee.

2. The height of any wireless communication facility shall be comparable to nearby structures of similar type and not more than 50 feet above normal grade unless otherwise approved by the city engineer in the installation permit.
3. Antennas shall be as compact as possible. To address the physical and aesthetic impact on the public right-of-way, the city engineer may limit the physical size of the antenna.
4. All riser cabling and wiring must be contained in conduit, affixed directly to the face of the structure, or enclosed within the hollow interior of the pole, for as long as it is technically feasible. No exposed slack or extra cable will be allowed.
5. No signage or advertising will be permitted, except as required by law or as specifically permitted or required by the city engineer.
6. Wireless communication facilities in historic areas shall comply with any special requirements applicable to such areas, and may be subject to additional city review.

b. Minimizing Impacts on Adjacent Property Owners.

1. A permit holder must design and install a wireless communication facility so as to minimize any impact on the adjacent property owners, and must actively mitigate any unreasonably adverse impact relating to visibility from the adjacent property; access to and from the adjacent property; intrusion of light, sound, or smell; in addition to any other cognizable unreasonable and substantial impact made known by an adjacent property owner. This shall not apply to new developments that were not present at the time of installation; however, this does not mean that specific sites will be included in any renewal agreement between the wireless communication facility permit holder and the city.
2. No Antenna shall be within five (5) feet of a door, balcony or window nor placed in front of any window within 20 feet and located at a similar height to the antenna unit on the adjacent public right-of-way, unless otherwise restricted by the right-of-way width.
3. An installation shall not interfere with city operations, or the operations of preexisting third-party installations in the public right-of-way. The city will reasonably cooperate with the applicant and/or permit holder to permit activities and modifications that may effectively avoid or correct the interference.

Section 7 limits the increase in height to a pole and ensures that there is no interference of the original service provided by the pole (such as light). Power is the responsibility of the permit holder.

Section 7. Enacted. Section 115-10-6 relating to Wireless Communications Facilities Upon Existing Structures is hereby enacted to read as follows:

115-10-6 Wireless Communications Facilities Upon Existing Structures

In addition to the general conditions described in section 115-10-5 and any specification contained in the Wireless Facility Guidelines, any wireless communication facility for which an installation permit is requested under this chapter shall meet the following requirements:

- a. The wireless communication facility shall not increase total existing height, including the wireless support structure, by more than 10% over other public utility poles in the area unless, in the city engineer's discretion, an alternative height is accepted depending on the type and structure of the existing facility and the proposed location.
- b. The wireless communication facility shall not impair nighttime visibility in the area that result from light emanating from a utility structure and shall not otherwise interfere with the original purpose of an existing structure.
- c. Electrical power. Unless otherwise provided in the applicable Site License, franchise, or encroachment agreement the acquisition of electrical power shall be the sole responsibility of the applicant.

Section 8 specifies the requirement for an MAA, which will outline the management of the facilities. Outlines fees collected in the Wireless Facility Guidelines. Specifies financial responsibility of the permit holder for the cost of repairs and holds harmless the City from damages to third parties.

Section 8. Enacted. Section 115-10-7 relating to Attachments to City-Owned Structures is hereby enacted to read as follows:

115-10-7 Attachments to City-Owned Structures

In addition to the requirements set forth in this article and the Wireless Facility Guidelines, the following conditions will apply to a wireless communication facility attached to a city-owned structure:

- a. The city engineer shall require an applicant for a wireless communication facility attachment to a city-owned structure to execute a separate MAA with the city addressing such attachment.
- b. The management of attachments to city-owned structures is governed by the MAA between the city and the applicant. The MAA does not waive any zoning, building code or other public right-of-way management requirements that may also apply.
- c. The city may require payment of rental fee, permit fee, application fee or other compensation, as set forth in the Wireless Facility Guidelines.

d. In the event a city-owned wireless support structure is compromised or knocked down, the city and an affected wireless communication facility permit holder will cooperate to reinstall or replace the pole and restore the wireless communication facility. The wireless communication facility permit holder shall be responsible for costs incurred by the repair or reinstallation of the wireless support structure. The MAA shall contain indemnifying language holding the city harmless for damages stemming from third-parties.

e. Training. At the request of the city, the permit holder shall host on-site training for city maintenance staff. The training will be offered semiannually or as otherwise agreed between the parties. The training shall include occupational safety, personal protection, proximity limits, emergency procedures and contact information. This information shall also be provided in writing and submitted electronically to the city.

Section 9 notes that if the facility is located on existing infrastructure that it will continue to provide the service (such as lighting) that it was originally intended to do. If a new pole is required then it will provide additional public benefits (such as lighting) and not be solely used as a wireless facility.

It also notes that the poles are the owned by the City, power to supply the facility is the responsibility of the permit holder, and that the permit holder will provide a supply of identical poles to be held by the city.

An agreement will outline the replacement process.

Section 9. Enacted. Section 115-10-8 relating to Replacement of City-Owned Structures or Addition of City-Owned Structures is hereby enacted to read as follows:

115-10-8 Replacement of City-Owned Structures or Addition of City-Owned Structures

In addition to the general conditions described in this chapter and the Wireless Facility Guidelines, the proposed replacement of an existing city-owned structure or placement of a new city owned structure shall be subject to the following requirements.

a. The replacement of a city-owned structure or the addition of a new city owned structure shall be entirely at the reasonable discretion of the city engineer and at a minimum, must be able to co-locate at least one additional similar facility.

b. Before installing a new structure in the right-of-way or replacing an existing structure, the applicant must demonstrate the following, to the satisfaction of the city engineer:

1. That the facility is not able to be placed on existing infrastructure. The applicant shall provide a map of existing infrastructure in the service area and describe why each such site is not feasible.

2. That city functions for which the original structure was used will be preserved, improved or enhanced, as part of any replacement structure, at the applicant's expense. Replacement of lighting, electrical power, network connectivity, and any other functional purpose of, on or within the original structure shall be done to the satisfaction of the city engineer.

3. In order to place a new city owned facility, the applicant must establish to the satisfaction of the city engineer that there are no existing or replacement structures that would provide the necessary capabilities, that the new facility serves a public purpose other than wireless communication, and that placement of the facility outside of the right-of-way on private property would be unduly burdensome.

c. Ownership. A replacement structure or a new structure under this section shall be dedicated to and owned by the city upon completion, to the satisfaction of the city. Unless otherwise provided in the applicable MAA, Site License, franchise, or encroachment agreement, the permit holder shall provide the city a Bill of Sale, free and clear of all liens and encumbrances.

d. Unless otherwise provided in the applicable Site License, franchise, or encroachment agreement, acquisition and use of electrical power to serve a wireless communication facility on a replacement wireless support structure or facility shall be the sole responsibility of the permit holder.

e. Stocked Poles. To enable prompt replacement in the event of a knockdown or structural compromise, a permit holder shall provide the city with an inventory of poles to be kept by the city. The inventory shall consist of, for each type/style of pole, one pole substantially identical to the initial city owned replacement pole. For each set of five additional replacement poles of any particular type/style, an additional pole of that type/style.

f. Facilities placed in the right-of-way shall be maintained in accordance with the terms of this article and as provided for in the MAA.

g. An applicant may be required to enter into such license and other agreements with the city or third parties as the city may require to effect the replacement, consistent with this section.

Section 10 outlines how equipment will be mounted if above or on the ground and instances when it may be required to be located underground. In discussions with Verizon, they've indicated that all equipment will be located underground for those facilities requiring pole replacement.

Section 10. Enacted. Section 115-10-9 relating to Equipment is hereby enacted to read as follows:

115-10-9 Equipment

a. Equipment other than ground-mounted equipment shall be mounted in one of the manners described below, or as prescribed by the city engineer.

1. Equipment shall be mounted in a base shroud of approved design. The base shroud should be coated or painted an approved color to match the pole.
2. Equipment shall be mounted directly to the pole a minimum of twelve (12) feet above the existing grade and be coated or painted with an approved color to match the pole.
3. Equipment shall be mounted to the pole in an equipment box a minimum of twelve (12) feet above the existing grade. The equipment box shall be coated or painted an approved color to match the pole.
4. Equipment shall be attached to the wireless support structure in a manner as approved by the city engineer.

b. Ground-Mounted Equipment.

1. A permit for a wireless communication facility that involves ground-mounted equipment will be issued if the city engineer finds the following:
 - a. The ground mounted equipment will not disrupt traffic or pedestrian circulation;
 - b. Space exists in the public right-of-way to accommodate the ground mounted equipment;
 - c. The ground mounted equipment will not create a safety hazard;
 - d. The location of the ground mounted equipment minimizes impacts on adjacent property;
 - e. In any historical area, that the ground mounted equipment does not detrimentally affect the historical nature of the area, to the satisfaction of the city engineer;
 - f. That no reasonable alternative exists that is more favorable to adjacent property owners and to effective use and management of the public right-of-way; and
 - g. The ground mounted equipment will not adversely impact the health, safety or welfare of the community.

2. Underground equipment. The city engineer may require, at his or her discretion, that utilities be placed underground, and may prohibit the installation of ground mounted equipment unless technically infeasible or otherwise cost prohibitive.

c. Any excavation required for installation of ground-mounted or underground equipment shall be performed in accordance with all applicable local, state, and federal laws and regulations.

Section 11 outlines how a wireless communications facility may be attached to a city owned building such as city hall or public works building for example. In the event the city sells this structure, the city will credit the fees back and assist with identifying an alternative site. The city is not responsible for the costs resulting from the sale of city-owned property.

Section 11. Enacted. Section 115-10-10 relating to Attachment to City-Owned Buildings is hereby enacted to read as follows:

115-10-10 Attachment to City-Owned Buildings

The city may permit the attachment of a facility to a city-owned building upon the recommendation of the city engineer and the approval of a lease by the city commission. An installation permit shall be required for such installations. If a city-owned building is sold the permit for the relevant attachment shall be revoked. The city shall work with the permit holder to identify a suitable alternative site for the replacement of the wireless communication facility and credit the permit holder for the fees already incurred toward the application of a new site. The city shall be held harmless for the permit revocation effectuated by the sale of the city-owned building.

Section 12 adds Wireless communications facility to the list of examples of uses within the utility use group.

Section 12. Amended and Re-enacted. Section 105-1-4 (q) relating the Utility service group is hereby enacted to read as follows:

(q) *Utility service group.* A use in the utility service group is a facility or structure necessary for the safe or efficient operation of a telecommunications, gas, water, electric, refuse, storm sewer or sanitary sewage system that serves more than an individual property or a subdivision. Facilities that provide service to individual properties or a subdivision are not part of the utility service group, are considered permitted uses and do not require any conditional use review by the planning and zoning commission or the city commission.

(1) The distinguishing characteristics of utility service group uses are:

- a. The utility which the structure or use serves is one available to the general public;
- b. The design and location of the premises and structure is in full compliance with all requirements of state and federal regulations governing the operation of the utility;

- c. The design and location of the premise and structure is reasonably necessary to provide service for a reasonable period of time with projected growth considered;
 - d. Except for electrical distribution installations, when a side of the lot on which the use is located adjoins a lot in a residential district or adjoins a residentially developed lot in a multi-use district there shall be planted and maintained a landscaped strip no less than five feet in width on that side of the lot;
 - e. Proper fencing with lot entrances shall be erected at least six feet high and maintained around all installations and structures in which there is any safety hazard whatsoever for children, provided that all structures shall be so located that such safety fence shall be so placed as not to encroach on any front yard required in the district in which the use is located; and
 - f. For the proper operation of the utility, it is necessary that the proposed use be located on, or within a short distance of, the site on which it is proposed to be located.
- (2) The following are examples of utility service group uses:
- a. Telecommunication transmission tower;
 - b. Electric transformer station;
 - c. Regional electric transmission line;
 - d. Sewage pumping station;
 - e. Water pumping station;
 - f. Water reservoir;
 - g. Gas pressure regulator station;
 - h. Solid waste recycling center;
 - i. Stormwater detention facility; and
 - j. Stormwater pumping station.
 - k. Wireless Communications Facility

Section 13 adds definitions for wireless communications facility where none presently exists.

Section 13. Amended and Re-enacted. Section 101-1-3 adding a new definition following Wholesale group to read as follows:

Wireless communications facility means any fixed tangible asset usable for the purpose of providing wireless transmission of voice, data, images or other signals or information including, but not limited to, telecommunications, cellular telephone service, personal communications service and paging service. A wireless communications facility includes antennas and accessory

equipment. A wireless communications facility does not include an underlying wireless support structure.

Section 14 Adds definitions for telecommunication transmission tower and telecommunications transmission tower antennae height. There is currently no definition for these in the ordinance.

Section 14. Amended and Re-enacted. Section 101-1-3 adding a new definition following Telecommunication facility to read as follows:

Telecommunication transmission tower means any pole, spire, structure or combination hereof, including supporting lines, cables, wires, braces and mast, designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guyed towers or monopole towers. A telecommunication tower may include, but not be limited to, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and personal communication service towers.

Telecommunication transmission tower and antenna height means the height of a freestanding telecommunication transmission tower and antenna shall be measured as the distance from ground level to the highest point on the tower, including the antenna. The height of a rooftop communication antenna shall be measured as the distance from the point where the base of the tower and antenna is attached to the roof, to the highest point on the supporting structure, including the antenna.

Changes terminology to one defined by Section 14 above. There is currently no definition of broadcast or communication towers.

Section 15. Amended and Re-enacted. Section 105-1-2 (1) to read as follows:

- (1) *Structures excluded from height limits.* A building height limit set forth in this chapter shall not apply to belfries, chimneys, domes, flagpoles, flues, monuments, cupolas, ~~broadcast and communication telecommunication transmission~~ towers, spires, tanks, water towers or similar structures, or to bulkheads, elevators, water tanks or similar roof structures and mechanical appurtenances. No such structure located on a roof shall have a total area greater than 25 percent of the roof area of the building; nor shall such structure be used for any residential purpose or any commercial or industrial purpose other than a use incidental to the main use of the building. No such structure shall be located closer to the lot line than a distance greater than 110 percent of the height of the structure above ground level.

Adding subsection (l) in order to require a conditional use permit for towers greater than 120 feet in height.

Section 16. Enacted. Section 105-1-5 (l) relating to a requirement for telecommunication transmission tower and antennae height in excess of 120' to obtain a conditional use permit to read as follows:

(l) Telecommunication transmission tower and antenna height exceeding one-hundred-twenty (120) feet.

Section 17 establishes that utility service group uses require a conditional use permit in residential zoning districts and a permitted use in commercial and industrial zones.

Section 17. Amended and Re-enacted. Section 105-3-4 through 105-3-17 relating to zoning district standards to read as follows:

Sec. 105-3-4. - R12 Residential District.

- (a) *General description.* The purpose of this district is to provide an opportunity to construct single-family housing on large lots that are protected from being further subdivided.
- (b) *Primary uses.* The primary permitted use is a single-family dwelling unit, either site built or modular, with a minimum habitable space of 3,500 square feet.
- (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) Accessory dwelling unit.
 - (2) Education group.
 - (3) Public recreation group.
 - (4) Utility service group.
 - (5) Religion group.
 - (6) Bed and breakfast.
 - a. One additional parking space per bedroom.
 - b. One sign no larger than four square feet.
 - c. Must maintain state facility license in good standing.
- (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 45 feet.
 - c. The minimum front yard setback for a local street is 40 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 12 feet.
- (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 40 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 12,000 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 and one-half stories. Accessory building shall be limited to two stories.
- (j) *Parking.* At least four 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)

Sec. 105-3-5. - R7 Residential District.

- (a) *General description.* The purpose of the R7 Residential District is to provide an opportunity to construct single-family dwellings in an area where few other uses are permitted.
- (b) *Primary uses.* The primary permitted use is a single-family dwelling unit.
- (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.
 - (5) Accessory dwelling unit.
 - (6) Bed and breakfast
 - a. One additional parking space per bedroom.
 - b. One sign no larger than four square feet.
 - c. Must maintain state facility license in good standing.
- (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 35 feet.
 - c. The minimum front yard setback for a local street is 20 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 six feet.
 - (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 40 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 7,000 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 two and one-half stories. Accessory buildings shall be limited to two stories.
- (j) *Parking.* At least three 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)

Sec. 105-3-6. - R4 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 and allow a second limited size rental unit.
- (b) *Primary uses.* The primary permitted use is a single-family dwelling unit.
- (c) *Secondary uses.*
 - (1) Accessory dwelling unit.
 - (2) Group dwelling for eight or fewer individuals with developmental disabilities as defined in NDCC 25-16-14. 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 30 feet.
 - c. The minimum front yard setback for a local street is ten 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.
 - (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 4,000 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)

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.
- (b) *Primary uses.* The following uses are permitted:
 - (1) Twin home.
 - (2) Single-family dwelling.
- (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.
 - (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)

Sec. 105-3-8. - RMH Residential District.

- (a) *General description.* The RMH Residential District is established as a district in which the principal use of land is for single-family manufactured dwelling units.
- (b) *Primary uses.* The primary permitted use is a single-family manufactured dwelling unit.
- (c) *Secondary uses.*
 - (1) Accessory dwelling unit.
 - (2) Group dwelling for eight or fewer individuals with developmental disabilities as defined in NDCC 25-16-14. This use requires one additional on-site mobility impaired parking space.
 - (3) Activity center or recreation facility serving the subdivision.
- (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) Education group.

- (2) Religion group.
 - (3) Utility service group.
 - (4) Public recreation group.
 - (5) Site built or modular dwelling unit.
- (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.
 - (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 60 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 3,000 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 one and one-half stories. Accessory buildings shall be limited to one story.
- (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.
- (k) *Skirting requirements.* Skirting may be used in lieu of a solid perimeter foundation. Skirting may be constructed of brick, stone, finished metal or other acceptable materials approved by the building inspector. The skirting shall be in place prior to issuance of a certificate of occupancy. The tongue and axle shall be removed if not covered by the skirting.

(Ord. No. 1242, § 5, 12-20-2016)

Sec. 105-3-9. - RM Residential District.

In any RM Residential District, the following regulations shall apply:

- (1) *General description.* The RM Residential District is established as a district in which the principal use of land is for residences, including multifamily dwellings and similar high-density residential development. For the RM Residential District, in promoting the general purposes of this chapter, the specific intent of this section is:
 - a. To encourage the construction of, and continued use of, the land for residential purposes.
 - b. To prohibit commercial and industrial use of the land and to prohibit any other use that would substantially interfere with the development and continuation of residential structures in the district.
 - c. To encourage the discontinuance of existing uses that would not be permitted as new uses in the district.
 - d. To discourage any use which, because of its character or size, would generate traffic or require municipal services substantially in excess of traffic and services that would exist if the district was developed solely for multifamily dwellings and similar residential uses.
- (2) *Uses permitted.* The following uses are permitted:
 - a. Single-family dwelling.
 - b. Two-family dwelling.
 - c. Multifamily dwelling.
 - d. Group dwelling.
 - e. Educational group.
 - f. Church.
 - g. Health-medical group.
 - ~~h. Utility service group.~~
 - hi. Public recreation group.
 - ij. Railroad line trackage.
 - jk. Funeral establishments, provided that the following requirements are met:
 1. Each such establishment shall provide an off-street parking area on the premises equal to 35 percent of the lot area and in no case less than 4,900 square feet exclusive of the area needed to park vehicles owned or operated by such establishment. For the purpose of determining such parking area, neither the required side yards nor the area in front of the building setback line shall be included as a part of such parking area.
 2. Each parcel upon which a funeral establishment is to be maintained shall have two side yards, one on each side of the building. The sum of the widths of the two side yards shall not be less than 20 percent of the average width of the lot, but in no event shall any side yard be less than ten feet.

3. No parking shall be permitted within ten feet of the side lot lines or in the area ahead of the building setback line.

h. Office-bank group.

m. Bed and breakfast facility located in a single-family dwelling, provided that the owner of the dwelling is the holder of a current bed and breakfast facility license for not to exceed four lodging units issued pursuant to the provisions of N.D.C.C. ch. 23-09.1 and that the owner provides one off-street vehicle parking space for each such unit and one off-street parking space for the owner/operator of such facility, and provided, further, that only one sign, not exceeding four square feet in size, advising such facility, may be placed on the premises.

ma. Manufactured home.

(3) 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. Utility service group

(43) Density. The maximum allowable density is 30.0 families per net acre.

(54) Lot area.

a. Each building containing dwelling units hereafter erected shall be located on a lot having an area not less than that shown in the following schedule:

Lot Area in Square Feet	Maximum Number of Dwelling Units
4,000 but less than 5,000	1
5,000 but less than 6,000	2
6,000 but less than 7,000	3
7,000 or more	4

b. For each 1,000 square feet, or fraction thereof, in excess of 7,000 square feet contained in a lot, the principal building may contain one dwelling unit in addition to the four dwelling units permitted in a principal building located on a lot having an area of 7,000 square feet. Any other permitted building or structure, together with accessory buildings, shall be located on a lot having an area of not less than 7,000 square feet; provided, however, that if a building designed for efficiency apartment units having not more than one-bedroom units, intended to house not more than two persons per dwelling unit, not exceeding the floor area ratio provided in subsection

(6) of this section and meeting all other provisions of this section and the provisions of this Code relating to the minimum standards governing the condition and maintenance of dwelling units, a building containing not more than six such efficiency dwelling units may be erected on a lot having not less than 7,000 square feet in area.

- (65) *Lot width.* Each lot shall have a width of not less than 50 feet measured along the front building line; provided, however, that on a record lot having a width of less than 50 feet at the front building line and 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, the minimum lot width measured along the front building line may be reduced to not less than 40 feet.
- (76) *Floor area ratio.* The floor area ratio of the principal building and all accessory buildings shall not exceed 0.40 for single-story buildings, nor shall it exceed 1.20 for buildings of more than one story. The ground area occupied by the principal and accessory buildings shall not exceed 40 percent of the total area of the lot. In computing floor area ratio and ground coverage, 200 square feet shall be added to the actual area of the building for each car space required by this chapter, if such space is not furnished within a building.
- (87) *Front yard.* Each lot shall have a front yard not less than 15 feet in depth.
- (98) *Side yards.* Each lot shall have two side yards, one on each side of the principal building. The sum of the widths of the two side yards shall be not less than 20 percent of the average width of the lot. On any lot having an average width of 50 feet or less, each side yard shall be not less than ten percent of the width of the lot, and in no case shall a side yard be less than four feet in width. On any lot having an average width greater than 50 feet, neither side yard shall be less than five feet in width. In no event shall any side yard be less than the requirements set forth in this subsection, provided that in computing the side yard width on any lot, the first one foot of any overhang for eaves shall not be counted.
- (109) *Rear yard.* Each lot shall have a rear yard not less than ten feet in depth.
- (110) *Height limits.* Single-family dwellings and two-family dwellings shall not exceed 2.5 stories, nor shall they exceed 35 feet in height. No principal building for any other permitted use shall exceed six stories, nor shall it exceed 60 feet in height. For each one foot or fraction thereof that a building exceeds 35 feet in height, there shall be added two feet to the minimum width of each side yard, two feet to the minimum depth of the front yard and one foot to the minimum depth of the rear yard required by this section. No accessory building shall exceed two stories, nor shall it exceed 25 feet in height.
- (124) *Exception.* Notwithstanding the limitations imposed by any other provision of this chapter, upon due application by the owner and the recommendation thereof by the planning and zoning commission, the board may permit the subdivision of an existing lot and approve the replat thereof to show the lot lines along the centerline of a common wall, and the renumbering of the lot upon which multifamily townhouses or row dwelling units are being or have been constructed so as to permit separate ownership of a lot

without side yards and having an area and width smaller than that required for a single-family dwelling, subject to the following:

- a. Each of the lots created by the subdivision shall contain an average of not less than 2,400 square feet of area.
- b. Each lot shall front on a dedicated street, or access shall be provided by platting a common driveway area and utility easements.
- c. Except for setbacks along the common property lines, all other setbacks and yard requirements shall be met.
- d. Each lot shall have separate water and sewer service lines into such lot or an appropriate written agreement between the adjoining property owners establishing the manner in which the cost of maintenance and repair of such lines will be shared.
- e. The subdivision of the lot shall be accomplished by the platting thereof in accordance with subdivision regulations of the city ordinances, including required public hearings for the plat approval.

(Ord. No. 1242, § 5, 12-20-2016)

Sec. 105-3-10. - RH Residential District.

In any RH Residential District, the following regulations shall apply:

- (1) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Mobile home means a mobile structure manufactured upon a chassis or an undercarriage which is an integral part of the structure and which:

- a. Is transported to the site on wheels;
- b. Comes fully equipped with flush toilet, tub or shower and kitchen facilities;
- c. Is ready for immediate occupancy upon its arrival to the site and its connection with utilities; and
- d. Is designed for long-term use as a single-family residence without permanent foundation.

Mobile home park means a plot or parcel of land, under single ownership, which has been improved for purposes of locating mobile homes as dwellings.

Mobile home site means a parcel of land, within a mobile home park, designed and improved for the accommodation of not more than one mobile home as a single-family residence.

Mobile home stand means that part of a mobile home site which has been reserved and improved for the placement of a mobile home, appurtenant structures or additions to a mobile home.

Self-propelled mobile home means a self-propelled vehicle containing living facilities, including the terms "house car" and "motor home," which was designed for temporary dwelling, generally for travel and recreational use, and licensed by a state as a motor vehicle.

Travel trailer means a vehicular portable structure having no foundation other than wheels or jacks, designed to be used as a temporary dwelling for travel and recreational activities, which is not more than eight feet in body width.

Travel trailer park means a plat or parcel of land, under single ownership, which has been improved for the purposes of locating travel trailers.

Travel trailer site means a parcel of land within a travel trailer park designed and improved for the accommodation of not more than one travel trailer.

Unit, dependent, means a mobile home, travel trailer or self-propelled mobile home without bath or shower and toilet facilities.

Unit, nondependent, means a mobile home, travel trailer or self-propelled mobile home with bath, shower and toilet facilities.

- (2) *General description.* The RH Residential District is established as a district in which the principal use of land is for residences, including mobile homes and travel trailers, located within mobile home parks and travel trailer parks.

(3) Permitted Uses:

a. Mobile homes and travel trailers, located within mobile home parks and travel trailer parks.

- (4) 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. Utility service group

- (53) Location. All mobile home and travel trailer parks shall be located in approved subdivisions according to the city's subdivision regulations.

- (64) Mobile home and travel trailer park locations.

- a. *Mobile homes.* All mobile homes in the city shall be located in an approved mobile home park or mobile home subdivision before being occupied. Also, no business shall be conducted out of a mobile home, except administrative duties of the court owner or manager of home occupation uses according to the city's zoning ordinances.
- b. *Mobile home parks.* Mobile home parks shall be located in an RH zoning district according to future provisions. Mobile home parks should be considered medium-density residential.
- c. *Travel trailers.* Travel trailers shall be located in an approved travel or mobile home park.

- d. *Travel trailer parks.* Travel trailer parks shall be located in an RH zoning district according to future provisions.
- e. *Self-propelled mobile homes.* Self-propelled mobile homes shall be located in an approved travel trailer or mobile home park.

~~(75)~~ *Licenses and/or permit requirements.*

- a. It is unlawful for any person to maintain, operate, alter or expand any mobile home or travel trailer park within the city's jurisdiction (one mile) without first obtaining a valid license and building permit from the designated officials of the city. Alteration or expansion of an existing mobile home or travel trailer park shall include any addition or reduction of a park site or rearrangement of other service buildings within the park.
- b. All mobile home and park license fees shall be set by resolution of the board.
- c. Application for a mobile home or travel trailer park license shall be filed with and issued by the state department of health and the city. The application shall be reviewed by the state health officer and city departments as deemed necessary by the building inspector. The site plans, specifications and zoning shall be reviewed by the city planning and zoning department. Application for subdivision or site plan approval and zoning changes for a mobile home or travel trailer park shall include payment of a planning review fee. These fees shall parallel the fee schedule of the city for subdivision and zone changes. The purpose of these fees is to offset the cost of publication and review by the planning department. An application for mobile home or trailer court approval shall be submitted to the city planner, along with said fee, and shall include the following:
 - 1. Name and address of the applicant and engineer or surveyor.
 - 2. Location map and legal description of the proposed or existing trailer or mobile home park.
 - 3. A complete site plan and specification of the proposed travel trailer or mobile home park or of the alteration or expansion of an existing park indicating:
 - (i) Total acreage and all dimensions of the tract of land.
 - (ii) Date of plan.
 - (iii) Lot and block acreage.
 - (iv) Scale and north arrow.
 - (v) Locations and dimensions of all existing and proposed streets, alleys and walkways, and location and size of all sidewalks.
 - (vi) Locations and dimensions of all proposed mobile home sites.
 - (vii) Locations, plans and specifications of all proposed service buildings.
 - (viii) Contours of the land at one-foot intervals for ground slopes between zero and two percent, two-foot contours between two and five percent, and four-foot contours for over five percent.
 - (ix) Finished grade plan for all streets and developed areas as required by the city engineer.

- (x) Locations and dimensions of all utility easements.
 - (xi) Locations and sizes of water, sewer and storm sewers or open drainage lines.
 - (xii) Locations of fire hydrants.
 - (xiii) Locations of all recreational areas.
 - (xiv) Locations of lighting stands.
 - (xv) All setback dimensions.
 - (xvi) Location and dimensions of mobile home park buffer.
 - (xvii) Such further information as may be required by the health officer to determine if the proposed mobile home park is in compliance with the applicable health regulations.
4. If the applicant desires to alter or expand an existing mobile home park, an additional site plan shall be submitted indicating the locations and dimensions of existing mobile home sites, streets, walkways and service buildings.
 5. A reproducible Mylar and six blue line prints, 24 inches by 36 inches, shall be submitted to the planning and zoning office upon final approval by the board. Said site plan shall have the signatures of the owner, city engineer, planning and zoning commission chairperson and board president.
 6. Within two weeks of moving into a mobile home, the owner will be required to have a certificate of occupancy. Before issuing the certificate of occupancy, the building inspector or designate shall inspect all utility connections, stabilizing devices, anchoring equipment and determine that the address has been properly installed. A fee for the certificate of occupancy, as set by the board, shall be required of the mobile home owner.
 7. All mobile home and travel trailer parks shall be located in an approved subdivision according to the city's subdivision regulations.

(86) *Design requirements for mobile home parks.*

- a. *Minimum size.* Each parcel of land to be used for a mobile home park shall be a minimum of ten acres, and any addition to said park must contain a minimum of four acres and be contiguous to the park with a boundary of at least 100 feet. The ratio of average depth to average width shall not be in excess of 4:1. There shall be a minimum width of 150 feet along any abutting public right-of-way.
- b. *Streets and parking; access to park.* Direct vehicular access to the mobile home park shall be only from an abutting approved public street. Access shall be so located as to provide minimum congestion on the external streets and to provide for good circulation within the park. Private access right-of-way shall intersect public right-of-way no closer than 150 feet from the intersection of two public streets.
- c. *Width of streets.* Streets in a mobile home park shall be private, but shall be constructed and paved in accordance with city street specifications and approved by the city engineer, except as to the paved width, which shall be as follows:
 1. Two-way streets with parking on both sides shall be 40 feet in width.

2. Two-way streets with parking on one side shall be 32 feet in width.
 3. Two-way streets with no parking on either side shall be 24 feet in width.
 4. No streets shall be less than 24 feet in width.
- d. *Entrance roads; easements and intersections.* All entrance roads into a mobile home park shall have a minimum unobstructed width of 60 feet and a minimum paving width of 36 feet at the point of entry. All streets into the mobile home park shall be designed for two-way traffic. Easements shall be provided on all streets within the mobile home park for the provision of city services, such as police, fire, and refuse collection. Street intersections should be at right angles on all major streets and minor streets, if possible.
 - e. *Curb and gutter and street grades.* Curb and gutter or alternatives shall be laid on all streets according to the city engineer. Street grades shall be sufficient to ensure surface drainage.
 - f. *Parking.* At least two off-street paved parking spaces per mobile home site shall be provided in the mobile home park. Clustered parking to meet the off-street requirements is allowed, but shall not be on the street right-of-way. Off-street parking for guests should be on the basis of one parking space for each four mobile home lots. Off-street parking shall be provided on the basis of one parking space for each 300 square feet of gross floor space in recreational, service and community buildings.
 - g. *Buffer strip.* Mobile homes shall be set back from any public right-of-way 25 feet and not less than 15 feet from any other boundary. Said buffer strip may be platted as part of the mobile home site. The buffer strip may not be designed for streets and utility sites, but may be utilized for drainage structures. No other structures shall be placed within any of the buffer strips.
 - h. *Recreation areas.* Mobile home park owners are encouraged to design parks with recreational areas sufficient for park residents.

(97) *Design requirements for mobile home site.*

- a. *Minimum size.* Each mobile home site shall have a minimum of 5,000 square feet of area with a minimum average width of 50 feet and minimum average depth of 100 feet. Mobile home sites located on a cul-de-sac may reduce frontage at the street line to 35 feet, but lot area must contain 5,000 square feet.
- b. *Land coverage.* Total structural coverage of a mobile home site shall not exceed 50 percent of the site area. In computing the ground coverage, 400 square feet shall be added to the area of the mobile home site for the two required off-street parking spaces and all accessory buildings. All nonattached storage sheds must be located in the backyard and not within five feet of the side or rear site line.
- c. *Access.* Each mobile home site shall abut on a street within the mobile home park, and access directly to the site shall only be from such an internal street.
- d. *Setback requirements.* No part of the mobile home or other structure upon a mobile home site shall be closer than five feet to a mobile home site boundary line. Mobile homes shall be set back from each other and accessory buildings by at least 15 feet

on adjacent lots. There shall be a minimum of ten feet between an individual mobile home and any abutting pavement of a park street.

(108) *Provisions of services in mobile home park.*

- a. *Service buildings.* Service buildings may include management offices, laundry facilities, repair shops and storage areas, sanitary facilities and indoor recreation facilities and incidental commercial uses.
- b. *Service building requirements.* All service buildings shall comply with the city ordinances and state laws and regulations concerning buildings, electrical installations, plumbing and sanitation systems. They shall, at all times, be operated and maintained in a clean, sightly condition by the park management.
- c. *Building height requirements.* No structure erected in a mobile home park shall exceed 25 feet in height.
- d. *Water supply.* Each mobile home park shall be connected with the city's water supply system and designed, constructed and maintained in accordance with the city's ordinances and state laws and regulations. Each mobile home park shall be provided with at least one above-ground water service connection which shall be capped when a mobile home does not occupy the site.
- e. *Sewage disposal.* All mobile home parks shall be connected to the city central sewer system, and sewer lines shall be designed, constructed and maintained in accordance with the city's ordinances and state laws and regulations and shall be capped when not in use.
- f. *Street lighting.* All entrances, exits and streets in mobile home parks shall be well-lighted. Street lighting may be either overhead or low level, but must be reflected onto the street.
- g. *Electricity and grounding.* Each mobile home and mobile home site shall be provided with electricity and proper grounding in accordance with the city's ordinances. Each mobile home site shall be individually metered by the supplying electrical utility company.
- h. *All service utility lines.* All service utility lines for electrical, telephone, gas and television communication shall be placed underground and designed and constructed in accordance with the city's ordinances.
- i. *Refuse handling.* The storage, collection and disposal of refuse in the mobile home park shall be provided for in accordance with the applicable city ordinances and state laws and regulations.
- j. *Fire protection.* All mobile home parks shall be subject to the regulations stated in the fire protection codes adopted by the city and state. Mobile home parks shall be kept free of litter, rubbish and other flammable materials. Portable fire extinguishers, rated for class B and C, shall be kept in service buildings, readily accessible for use by all occupants and maintained in good operating condition.
- k. *Street signs and mobile home site address and design.* The owner of a mobile home park shall provide street name signs. The individual mobile home owner shall be

responsible for displaying on the front of the mobile home the address in letters no smaller than two inches in height before occupancy. All street names shall conform to the city's street plan. All existing and new mobile home parks shall construct street signs, and all sign material shall conform to the city's street sign specifications.

1. *Register of occupants.*

1. A register of all mobile home occupants and owners of mobile homes in the park shall be maintained with the following information:

- (i) The name and address of each mobile home occupant.
- (ii) The name and address of the owner of each mobile home, if different from the occupant.
- (iii) The dates of arrival and departure of each mobile home.

2. An updated register of occupancy shall be provided to the city every three months with the data in subsection (8)l.1 of this section, as required by the county tax equalization department.

(119) *Temporary parking of travel trailers, camper trailers, cargo trailers and boat trailers.*

a. *Forty-eight-hour parking limit.* No owner of property within the corporate limits of the city shall permit the parking, maintaining or keeping upon his property, and no person shall park, maintain or keep any travel trailer, camper trailer, cargo trailer or boat trailer for more than 48 hours, unless such trailer is located in a garage. Trailer sales of new and used unoccupied trailers, house cars or camp cars by an individual, firm, or corporation, properly licensed and zoned for trailer sales use shall be located in commercial zoning districts.

b. *Parking sites in mobile home parks.* A separate travel trailer park site for travel trailers or camper trailers shall be permitted in any mobile home park, provided that:

- 1. Said camp area comprises less than ten percent of the total area of said mobile home park;
- 2. A 25-foot buffer strip exists between said camp site and any mobile home site; and
- 3. Toilet, water and garbage disposal facilities are available and easily accessible to users of said camp site.

c. *Parking of trailers in residential districts.*

1. Travel trailers, camper trailers and boat trailers not in excess of eight feet in width shall be permitted to park on private property in any residential district, provided that they are:

- (i) Located behind the front building line and not on the public boulevard;
- (ii) Located in a storage shed or garage; or
- (iii) Located in a driveway area permitted for the parking of passenger cars.

2. Collapsible camping trailers, when stored on a residential lot, shall be stored in a collapsed state.
 - d. *Parking of self-propelled mobile homes.* Self-propelled mobile homes, not exceeding state department of transportation limits in length, shall be permitted to park as a passenger vehicle, but shall not be permitted to be used as a living unit on any public right-of-way.
 - e. *Parking on public property prohibited.* No trailer or mobile home shall be parked upon any public right-of-way, park or other public property within the corporate limits of the city more than 48 hours, and shall not be used for sleeping, housekeeping or living quarters while so parked, unless located in an area publicly designated for such use.
 - f. *Parking of construction trailers.* Trailers used for construction offices on a construction site in a subdivision shall be permitted during the period of construction only after a building permit for the construction job has been issued. Such trailers must be removed from the site or subdivision before a certificate of occupancy is issued for the new construction. Such permitted trailers shall not be used for sales, habitation or promotional purposes and shall be permitted only after receiving a permit from the building inspector for each such trailer.
- (120) *Design requirements for travel trailer park.*
 - a. *Site plans.* Site plans and specifications for travel trailer parks are required as stated in subsection (10)e of this section.
 - b. *Minimum size.* Each parcel of land to be used for a travel trailer park shall be a minimum of 2.5 acres, and the ratio of average depth to average width shall not be in excess of 4:1. If included as part of a mobile home park, a travel trailer park cannot occupy more than ten percent of the area.
 - c. *Streets and parking.*
 1. *Access to park.* Direct vehicular access to the travel trailer park shall be only from an abutting, approved public street. Access shall be located so as to provide minimum congestion on the external streets and to provide for good circulation within the park.
 2. *Width of streets.* Streets in a travel trailer park shall be private and shall be of the following width:
 - (i) Two-way streets with no parking on either side shall be at least 24 feet in width.
 - (ii) Two-way streets with parking on one side shall be at least 32 feet in width.
 - (iii) No roads will be permitted with parking on both sides of the street.
 - (iv) One-way streets are permitted with a minimum width of 24 feet.
 3. *Street surfacing.* All streets shall be paved according to specifications set forth by city ordinances.
 4. *Parking.* At least one off-street parking space per travel trailer site in each travel trailer park is required.

5. *Travel trailer site.* Each travel trailer site shall be well drained and contain a stabilized vehicular parking pad composed of paving or other suitable material as determined by the city engineer. The remainder of the site shall be grassed and landscaped.
 - d. *Buffer strip.* There shall be a well-landscaped buffer strip not less than 25 feet in depth between travel trailer sites and all public streets abutting the travel trailer park and a landscaped buffer strip of not less than 15 feet in depth between travel trailer sites and all other boundaries of the park. Nothing contained in this subsection is to be construed to require a 25-foot buffer strip or 15-foot buffer strip between individual travel trailer sites. The landscaped buffer shall be separate from travel trailer sites, recreation areas, streets, and the utility sites, but may be utilized for drainage structures and utilities distribution and collection. No other structures shall be placed within any of the buffer strips.
 - e. *Recreation areas.* A minimum of ten percent of the total land area of a travel trailer park shall be devoted to one or more common use areas for recreation activity. These recreation areas shall be storage areas, utility sites, and all nonrecreational service buildings. They shall be easily accessible to all park users and shall be owned and maintained by the park management. Although the required space for recreation usage can be met through more than one recreation area in a travel trailer park, minimum size of any area shall be 5,000 square feet.
 - f. *Tent camping.* Tent camping shall be permitted in a travel trailer park on individual travel trailer sites or as accessory uses to travel trailers, if occupied by members of the same party.
- (131) *Design requirements for travel trailer sites.*
 - a. *Minimum size.* Each parking site shall have a minimum of 1,500 square feet of area with a minimum average width of 25 feet and a minimum average depth of 60 feet. There shall be a maximum of 15 travel trailer sites per acre of land within the travel trailer park.
 - b. *Access.* Each travel trailer site shall abut on at least one street within the travel trailer park, and access directly to the site shall be only from such an internal street.
 - c. *Setback requirements.* No part of a travel trailer placed on a travel trailer site shall be closer than five feet to a site line.
 - d. *Appurtenances.* No permanent external appurtenances, such as cabanas or awnings, may be attached to a travel trailer, and the removal of wheels or the placement of the unit on a permanent foundation is prohibited.
- (142) *Provisions of services in travel trailer parks.*
 - a. *Service buildings.*
 1. Service buildings may include management offices, laundry facilities, storage areas and any other such buildings necessary to the proper operation of a travel trailer park.

2. All service buildings shall comply with the city ordinances and state law and regulations concerning buildings, electrical installations, plumbing and sanitation systems. They shall, at all times, be operated and maintained in a clean, sightly condition by the park management.
 - b. *Water supply.*
 1. An adequate supply of water shall be provided in accordance with the state sanitary codes and city ordinances. Travel trailer parks shall be connected to the city's central water system and with water lines designed, constructed and maintained in accordance with the city's ordinances.
 2. A minimum of one water supply outlet shall be provided for every two travel trailer sites.
 - c. *Sewage disposal.*
 1. All sewage disposal facilities shall be designed, constructed and maintained in accordance with the state sanitary codes and city ordinances. All travel trailer parks shall be connected to the central sewer system of the city.
 2. At least one sanitary dumping station shall be provided for every travel trailer park with at least one connection for every 50 travel trailer sites or fractional part.
 3. A complete restroom facility shall be located within a travel trailer site in accordance with the following schedule for 30 travel trailer sites or fractional part:
 - (i) Toilets: Two men, four women.
 - (ii) Urinal: Two men.
 - (iii) Washstand: Three men, three women.
 - (iv) Showers: Two men, two women.
 - d. *Lighting.* All entrances, exits, streets and service buildings shall be well-lighted during the hours of darkness. Street lighting may be either overhead or low-level, but must be reflected into the street.
 - e. *Electricity and grounding.* Each travel trailer site shall contain at least one approved electrical receptacle having a minimum of 100/115 volt alternating current.
 - f. *Service utility lines.* All service utility lines within a travel trailer park shall be placed underground and designed and constructed in accordance with city ordinances.
 - g. *Refuse handling.* Each travel trailer site shall be provided with either a metal can with a tight-fitting metal covering, of a capacity not less than four gallons and not to exceed 30 gallons, or dumpster containers, one to four cubic yards, for 14 travel trailer sites that can be maintained by the city.
 - h. *Fire protection.* All travel trailer parks shall be subject to the regulations stated in the Fire Protection Code adopted by the city. Travel trailer parks shall be kept free of litter, rubbish and other flammable materials.

- i. *Animal control.* No owner or person in charge of an animal shall permit said animal to run at large or to commit any nuisance within the limits of any travel trailer park.
 - j. *Street names.* The owner of the travel trailer park shall provide for street name signs. All street names shall conform to the city's street plan. All existing and new travel trailer parks shall construct street signs, and all sign material shall conform to the city's street sign specifications.
- (153) *Operation of travel trailer park.*
- a. *Permitted uses.* A travel trailer park may include travel trailers and any such service buildings or accessory uses necessary for the proper, safe, sanitary operation of the travel trailer park. One mobile home may be located in any travel trailer park for the exclusive use of the owner or park manager as an office or residence.
 - b. *Responsibilities of park management.* The owner of a travel trailer park or the park management shall, at all times, keep the park and its facilities in a clean, orderly and sanitary condition. The park management shall inform all park occupants of the provisions of this article and other related ordinances and state laws and of the responsibilities under this section.
 - c. *Register of occupants.* A register of all travel trailer occupants in the park shall be maintained with the following information:
 - 1. The name and address of each travel trailer owner or operator making use of the travel trailer park.
 - 2. The make, model, year and vehicle license number of each travel trailer and motor vehicle.
 - 3. The state, territory and county in which all vehicles are registered.
 - 4. The dates of arrival and departure of each travel trailer.
- (164) *Penalty.* Every person violating this section shall, upon conviction thereof, be punished by a fine of not more than \$500.00, by imprisonment for not more than 30 days or by both such fine and imprisonment in the discretion of the court. The court has the power to suspend the sentence or any part and to revoke the suspension thereof.

(Ord. No. 1242, § 5, 12-20-2016)

Sec. 105-3-11. - CA Commercial District.

In any CA Commercial District, the following regulations shall apply:

- (1) *General description.* The CA Commercial District is established as a district in which the principal use of land is for commercial and service uses to serve the surrounding residential district and in which traffic and parking congestion can be reduced to a minimum in order to preserve residential values and to promote the general welfare of the surrounding residential districts. For the CA Commercial District, in promoting the general purposes of this chapter, the specific intent of this section is:

- a. To encourage the construction of, and continued use of, the land for neighborhood, commercial and service purposes.
 - b. To prohibit heavy commercial and industrial use of the land and to prohibit any other use that would substantially interfere with the development or continuation of the commercial structures in the district.
 - c. To discourage any use which, because of its character or size, would interfere with the use of the land in the district as a shopping and service center for the surrounding residential districts.
- (2) *Uses permitted.* The following uses are permitted:
- a. Single-family dwelling.
 - b. Two-family dwelling.
 - c. Multifamily dwelling.
 - d. Group dwelling.
 - e. Retail group A.
 - f. Service group A.
 - g. Filling station.
 - h. Office-bank group.
 - i. Health-medical group.
 - j. Utility service group
 - jk. Bed and breakfast facility located in a single-family dwelling, provided that the owner of the dwelling is the holder of a current bed and breakfast facility license for not to exceed four lodging units issued pursuant to the provisions of N.D.C.C. ch. 23-09.1 and that the owner provides one off-street vehicle parking space for each such unit and one off-street parking space for the owner/operator of such facility, and provided, further, that only one sign, not exceeding four square feet in size, advertising such facility, may be placed on the premises.
- (3) *Dwelling regulations.* Each single-family, two-family, multifamily or group dwelling hereafter erected shall comply with all regulations governing such uses in an RM Residential District as provided under section 105-3-9.
- (4) *Lot area.* No CA Commercial District shall contain less than two acres. No zoning lot on which an individual building is placed shall contain less than 5,000 square feet; provided, however, that a building having one or more party walls and a common roof with one or more similar buildings, but individually owned, may be on a lot of any size as long as all other provisions of this chapter, including all provisions for off-street parking and loading, are fully complied with on that lot.
- (5) *District width.* Each CA Commercial District shall have an average width of not less than 200 feet and shall have no boundary line less than 100 feet in length.
- (6) *Floor area ratio.* The floor area ratio of the principal building and all accessory buildings shall not exceed 0.25 for single-story buildings, nor shall it exceed 0.35 for

buildings of more than one story. The ground area occupied by the principal and accessory buildings shall not exceed 25 percent of the total area of the lot.

- (7) *Yards.* No building shall be less than 25 feet distant from the front lot line. Each lot shall have two side yards, one on each side of the building. The sum of two side yards shall not be less than 20 percent of the average width of the lot, but in no event shall any side yard be less than ten feet in width. Each lot shall have a rear yard not less than ten feet in width.
- (8) *Height limits.* No building shall exceed two stories, nor shall it exceed 25 feet in height.
- (9) *Divided district.* For the purpose of calculating the minimum area, lot width, lot dimension, floor area ratio percentage of lot covered by building, and yard requirements established by this section, a single CA Commercial District cannot lie on two sides of a public street or alley. Any area designated as being zoned CA Commercial and lying on both sides of a public street or alley shall be deemed to be two CA Commercial Districts, and all minimum requirements shall be met by buildings on each side of said public street or alley as separate districts.
- (10) *Nonconforming uses.* It is the intent of this chapter and this section to designate no area as a CA Commercial District in which there is, at the date of the adoption of the ordinance from which this section is derived, any nonconforming use. It is the further intent of this chapter and this section that, insofar as possible, all neighborhood commercial and service areas in newly developed portions of the city shall take place in a CA Commercial District, in order to decrease traffic and parking congestion and to preserve the residential values of the city. The planning and zoning commission shall refuse to approve any requests for an amendment rezoning any portion of the city to a CA Commercial District if there is in that district any use which would be a nonconforming use upon the passage by the board of the proposed amendment.

(Ord. No. 1242, § 5, 12-20-2016)

Sec. 105-3-12. - CB Commercial District.

In any CB Commercial District, the following regulations shall apply:

- (1) *General description.* The CB Commercial District is established as the Central Business District of the city in which the principal use of the land is for commercial and service uses for the city and its regional market area. For the CB Commercial District, in promoting the general purposes of this chapter, the specific intent of this section is:
 - a. To encourage the construction of, and the continued use of, the land for regional, commercial and service uses.
 - b. To provide for the orderly expansion of such uses within the CB Commercial District as designated on the zoning map.
 - c. To prohibit heavier commercial and industrial use of the land and to prohibit uses which would substantially interfere with the continuation of the uses presently in the district or with the orderly growth of the district to meet the needs of increased population in the regional market area.

- d. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this section.
- e. To encourage the development of the district with such uses and in such a manner as to minimize traffic and parking congestion and in such manner as to provide for the safety and convenience of shoppers, visitors, and other pedestrians in the district.
- f. To discourage any use which, because of its character or size, would create abnormal traffic congestion or fire or safety hazards in the district.

(2) *Uses permitted.* The following uses are permitted:

- a. Single-family dwelling.
- b. Two-family dwelling.
- c. Multifamily dwelling.
- d. Group dwelling.
- e. Hotel.
- f. Motel.
- g. Retail group A.
- h. Service group A.
- i. Filling station.
- j. Office-bank group.
- k. Retail group B.
- l. Service group B.
- m. Commercial recreation group.
- n. Wholesale group.
- o. Church.
- p. Health-medical group.
- q. Education group.
- r. Public recreation group.
- s. Fire station.
- t. Railroad line trackage.
- u. Railroad spur trackage.
- v. Railroad or bus passenger station.
- w. Utility service group.
- x. Bed and breakfast facility located in a single-family dwelling, provided that the owner of the dwelling is the holder of a current bed and breakfast facility license for not to exceed four lodging units issued pursuant to the provisions of N.D.C.C. ch. 23-09.1 and that the owner provides one off-street vehicle parking space for each

such unit and one off-street parking space for the owner/operator of such facility, and provided, further, that only one sign, not exceeding four square feet in size, advertising such facility, may be placed on the premises.

- (3) *Dwelling regulation.* Each single-family, two-family, multifamily or group dwelling hereafter erected shall comply with all regulations governing such uses in an RM Residential District as provided under section 105-3-9.
- (4) *Lot area.* Except as provided in subsection (3) of this section, any permitted principal building or structure, together with its accessory buildings, shall be located on a lot having an area of not less than 2,500 square feet; provided, however, that such principal building and accessory buildings may be erected on a record lot having an area of less than 2,500 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.
- (5) *Lot width.* Each lot shall have a width of not less than 20 feet measured along the front line of said lot; provided, however, that said minimum width of 20 feet shall not be required on a record lot 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.
- (6) *Floor area ratio.* The floor area ratio of any principal nonresidential building and its accessory buildings shall not exceed 1.00 for single-story buildings, nor shall it exceed 5.00 for buildings of more than one story.
- (7) *Front yard.* No front yard shall be required of any principal nonresidential building in a CB district.
- (8) *Side yards.* No side yard shall be required of any principal nonresidential building in a CB district.
- (9) *Rear yards.* Each lot shall have a rear yard not less than ten feet in depth; provided, however, that where the rear of a lot adjoins an alley, no rear yard shall be required for a principal nonresidential building.
- (10) *Height limits.* No building shall exceed nine stories nor shall it exceed 85 feet in height.
- (11) *Special conditions for a specified lot.* By ordinance, the board authorized inclusion of Lot 12 of Lot A, Sunview Heights Addition, and that vacated portion of section line street known as Twenty-Seventh Street Northeast between Old Red Trail and Interstate 94 in the Southwest Quarter, Section Sixteen, Township One Hundred Thirty-Nine North, Range Eighty-One West of the Fifth Principal Meridian of the City of Mandan within a CB Commercial District subject to the following zoning conditions:
 - a. Any structure built on Lot 12, Sunview Heights Addition, shall have a side yard setback of at least 100 feet between Lots 11 and 12.
 - b. The owner of said Lot 12 shall erect and maintain a chain-link fence east of the buffer zone near the common boundary between Lots 11 and 12, Sunview Heights Addition.
 - c. Trees shall be planted to the west of the chain-link fence as recommended by the city forester to act as a screen and buffer zone between Lots 11 and 12, Sunview Heights Addition.

(12) *Off-street parking and loading requirements in CB Commercial District.*

- a. In that section of the CB Commercial District described as follows:

Commencing at the intersection of the centerline of Main Street at Fourth Avenue NE; thence northerly along centerline of Fourth Avenue NE to the intersection of centerline of the alley in Block 3, Original Town of Mandan; thence westerly along the centerline of alleys in Blocks 3, 4, 5, and 6 to the north-south alley in said Block 6, thence northerly along centerline of First Street NE; thence westerly along centerline of First Street NE to the intersection of centerline of Collins Avenue; thence northerly along centerline of Collins Avenue to the intersection of projected south boundary line of Lot 3 Block 22 of Original Town of Mandan; thence westerly along south boundary line of Lots 3 and 10, Block 22; Lots 3 and 10, Block 21; Lots 3 and 10, Block 20; and Lots 3 and 10, Block 19 all of the Original Town of Mandan to the intersection of centerline of Fourth Avenue NW; thence southerly along centerline of Fourth Avenue NW to the intersection of centerline of First Street NW; thence westerly along centerline of First Street NW to the intersection of centerline of Sixth Avenue NW; thence southerly along the centerline of Sixth Avenue NW to the intersection of center of east-west alley of Block 13 of Original Town of Mandan; thence westerly along the centerline of east-west alley in Block 13 and 14 of Original Town of Mandan to the intersection of centerline of Eighth Avenue NW; thence southerly along centerline of Eighth Avenue NW to the intersection of centerline of Main Street; thence easterly along centerline of Main Street to intersection of centerline of Fourth Avenue NE the same being the point of beginning.

- b. Provisions of this section regarding off-street parking shall be applied in the following:
1. For any building replacing a building existing at the date of the ordinance from which this section is derived, a new building being constructed on vacant land or a building in which the floor space is increased by any additions or structural alternations, off-street parking space will not be required under this chapter, but will be provided by the city as the governing body of this city may from time to time provide by eminent domain or other authorized legal means and assessed against the benefited property.
 2. Notwithstanding any other requirements of this section relative to off-street parking, off-street loading shall be provided as designated elsewhere in this section.

(Ord. No. 1242, § 5, 12-20-2016)

Sec. 105-3-13. - CC Commercial District.

In any CC Commercial District, the following regulations shall apply:

- (1) *Uses permitted.* The following uses are permitted:
- a. Any use permitted in a CB Commercial District, except residential dwellings.
 - b. Storage building and warehouse.

- (2) *Lot area.* Each principal building hereafter erected, together with its accessory buildings, shall be located on a lot having an area of not less than 7,000 square feet.
- (3) *Lot width.* Each lot shall have a width of not less than 50 feet measured along the front building line.
- (4) *Floor area ratio.* The floor area ratio shall be as prescribed for CB Commercial Districts as set out in section 105-3-12(6).
- (5) *Front yard.* Each lot shall have a front yard of not less than 35 feet.
- (6) *Side yards.* No side yard shall be required of any building, except on lots which abut on a public street, in which event no building shall be less than 35 feet from any lot line.
- (7) *Rear yards.* Each lot shall have a rear yard not less than ten feet in depth.
- (8) *Height limits.* No building shall exceed nine stories, nor shall it exceed 85 feet in height.
- (9) *Off-street parking and loading space.* Parking and loading spaces shall be as required by section 105-1-6.

(Ord. No. 1242, § 5, 12-20-2016)

Sec. 105-3-14. - MA Industrial District.

In any MA Industrial District, the following regulations shall apply:

- (1) *General description.* The MA Industrial District is established as a district in which the principal use of land is for heavy commercial establishments and non-nuisance industries. For the MA Industrial District, in promoting the general purposes of this chapter, the specific intent of this section is:
 - a. To encourage the construction of, and the continued use of, the land for commercial and industrial buildings.
 - b. To prohibit use of the land for heavy nuisance industry and to prohibit any other use which would substantially interfere with the development or continuation of commercial and industrial establishments in the district.
 - c. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this chapter.
- (2) *Uses permitted.* The following uses are permitted:
 - a. Retail group A.
 - b. Retail group B.
 - c. Service group A.
 - d. Service group B.
 - e. Filling station.
 - f. Wholesale group.
 - g. Fire station.

- h. Truck terminal.
 - i. Railroad line trackage.
 - j. Railroad spur trackage.
 - k. Railroad or bus passenger station.
 - l. Railroad freight station.
 - m. Utility service group.
 - n. Industrial group A.
 - o. Animal hospital.
 - p. Radio or television transmitting station.
- (3) *Lot area.* Each principal building hereafter erected, together with its accessory buildings, shall be located on a lot having an area of not less than 5,000 square feet.
- (4) *Lot width.* Each lot shall have a width of not less than 50 feet measured along the front building line; provided, however, that on a record lot having a width of less than 50 feet at the front building line, and 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, the minimum lot width measured along the front building line may be reduced to not less than 25 feet.
- (5) *Floor area ratio.* The floor area ratio of the principal building and all accessory buildings shall not exceed 1.0 for single-story buildings, nor shall it exceed 2.0 for buildings of more than one story.
- (6) *Front yard.* No front yard shall be required, except where the majority of lots in a block have been lawfully occupied with buildings having front yards, in which case the regulations of section 105-1-2 shall apply.
- (7) *Side yards.* No side yards shall be required, except where a lot adjoins a lot in a residential district, then a building on a lot in the MA Industrial District shall observe the side yard requirements of the adjacent residential district.
- (8) *Rear yard.* No rear yard shall be required.
- (9) *Height limits.* No principal building shall exceed four stories, nor shall it exceed 50 feet in height.
- (10) *Off-street parking and loading spaces.* The intent of this section in reducing the required yards to a minimum is to allow a greater flexibility in locating buildings on a lot. It is not the intent of this section to eliminate or exempt any use permitted in the district from full compliance with all off-street parking and loading requirements of this chapter.

(Ord. No. 1242, § 5, 12-20-2016)

Sec. 105-3-15. - MB Industrial District.

In any MB Industrial District, the following regulations shall apply:

- (1) *General description.* The MB Industrial District is established as a district in which the principal use of land is for heavy commercial and industrial establishments, which may create some nuisance, and which are not properly associated with, nor compatible with, residential, institutional and neighborhood commercial and service establishments. For the MB Industrial District, in promoting the general purposes of this chapter, the specific intent of this section is:
 - a. To encourage the construction of, and the continued use of, land for heavy commercial and industrial purposes.
 - b. To prohibit any other use that would substantially interfere with the development, continuation or expansion of commercial and industrial uses in the district.
 - c. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this chapter.
- (2) *Uses permitted.* The following uses are permitted:
 - a. Filling station.
 - b. Retail group B.
 - c. Service group B.
 - d. Wholesale group.
 - e. Fire station.
 - f. Truck terminal.
 - g. Railroad line trackage.
 - h. Railroad spur trackage.
 - i. Railroad freight station.
 - j. Railroad freight classification yard.
 - k. Truck farming group.
 - l. Utility service group.
 - m. Industrial group A.
 - n. Industrial group B.
 - o. Livestock sales pavilion.
 - p. Oil and gas well.
 - q. Radio or television transmitting station.
 - r. Sand and gravel extraction.
 - s. Sewage treatment plant.
 - t. Animal hospital.
 - u. Taxidermy.

- (3) *Lot area.* Each principal building erected, together with its accessory buildings, shall be located on a lot having not less than 10,000 square feet; provided, however, that in an MB Industrial District, and in no other residential, commercial or industrial district, it is permissible to erect more than one principal building on a zoning lot, provided that all other requirements of this section and this chapter are complied with.
- (4) *Lot width.* Each lot shall have a width of not less than 75 feet measured along the front building line; provided, however, that on a record lot having a width of less than 75 feet at the front building line and, 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, the minimum lot width measured along the front building line may be reduced to not less than 50 feet.
- (5) *Floor area ratio.* The floor area ratio of the principal buildings or building and all accessory buildings shall not exceed 0.30 for single-story buildings, nor shall it exceed 0.60 for buildings of more than one story. The ground area occupied by the principal building or buildings and accessory buildings shall not exceed 30 percent of the total area of the lot.
- (6) *Front yard.* Each lot shall have a front yard not less than 50 feet in depth.
- (7) *Side yards.* Each lot shall have two side yards, one on each side of any principal building. The sum of the widths of the two side yards shall not be less than 20 percent of the average width of the lot. On any lot having an average width of 75 feet or less, each side yard shall be not less than ten percent of the width of the lot, and in no case shall a side yard be less than five feet in width. On any lot having an average width greater than 75 feet, no side yard shall be less than 7.5 feet in width and no side yard need be greater than 50 feet in width. On a lot containing two principal buildings located side by side, there are no minimum requirements for side yards between the two buildings.
- (8) *Rear yard.* Each lot shall have a rear yard not less than 25 feet in depth.
- (9) *Height limits.* No principal building shall exceed four stories, nor shall it exceed 50 feet in height. No accessory building shall exceed two stories, nor shall it exceed 25 feet in height.

(Ord. No. 1242, § 5, 12-20-2016)

Sec. 105-3-16. - MC Industrial District.

In any MC Industrial District, the following regulations shall apply:

- (1) *Uses permitted.* Any use permitted in an MA Industrial District, except ~~residential dwellings and~~ an animal hospital.
- (2) *Lot area.* Each principal building hereafter constructed, together with its accessory buildings, shall be located on a lot having an area of not less than 7,000 square feet.
- (3) *Lot width.* Each lot shall have a width of not less than 50 feet measured along the front building line.

- (4) *Floor area ratio.* The floor area ratio shall be as prescribed for MA Industrial District as set out in section 105-3-14(5).
- (5) *Front yard.* Each lot shall have a front yard of not less than 35 feet.
- (6) *Side yards.* No side yard shall be required for any building, except on lots which abut on a public street, in which event no building shall be less than 35 feet from any lot line.
- (7) *Rear yard.* Each lot shall have a rear yard not less than ten feet in depth.
- (8) *Height limits.* No principal building shall exceed four stories, nor shall it exceed 50 feet in height.
- (9) *Off-street parking and loading space.* Parking and loading spaces shall be as required by section 105-1-6.

(Ord. No. 1242, § 5, 12-20-2016)

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Sec. 105-3-17. - MD Industrial District.

In any MD Industrial District, the following regulations shall apply:

- (1) *Uses permitted.* The following uses are permitted:
 - a. Any use permitted in an MB Industrial District.
 - b. Temporary livestock handling and retention facilities as necessary for the operation of a livestock sales market, and an abattoir.
 - c. Medical marijuana growing facility.
- (2) *Dimensional standards.* The provisions of section 105-3-15 relating to an MB Industrial District concerning lot area, lot width, floor area ratio, front yard, side yard, rear yard, and height limits shall apply to any MD Industrial District.
- (3) *Off-street parking and loading space.* Parking and loading spaces shall be as required by section 105-1-6.

Section 18. 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 19. 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 Commission: April 22, 2019

First Consideration:

Second Consideration and Final Passage:

TBD

Exhibit 2 - City of Mandan North Dakota Wireless Facility Guidelines

Wireless Facility Guidelines City of Mandan North Dakota Draft 1/11/2019

The following guidelines are in addition to the requirements of Section 115-10 Wireless Telecommunication Facilities in the Public Right-Of-Way

Wireless Communication Facility (WCF):

- All-in-One Principle
 - Equipment submitted shall be of a nature which encompasses multiple technologies, frequency bands, protocols, coverage objectives, and capacity goals. Attached equipment shall be compact and scaled to the public utility structure. Equipment that is customary for normal cell site or tower application may not be approved for installation or operation on a City owned structure.
- Infrastructure Providers
 - Infrastructure providers are Permit Holders that do not have FCC licenses to directly operate a WCF, but lease Equipment (or space) to those companies that have FCC license. Infrastructure providers shall design using “all-in-one” principles as described above. Infrastructure providers shall design facilities to accommodate more than one wireless provider, and combine “all-in-one” principles across technologies, frequency band, protocols, coverage objectives, and capacity goals. Infrastructure providers shall disclose, in construction documents, which equipment is for a specific wireless provider and which equipment is for multiple wireless provider at each WCF.

Permit and Fees:

- Permit and Fees required in accordance with Section 115-10.
- Application:
 - Phase I (\$250 for up to five sites; +\$50 per additional site) (30 days for colocation; 45 days for new pole) (set meeting date and time)
 - Required Information:
 - Map on City Coordinates with locations
 - Max number of sites in application (15)
 - Photo of City owned structure that you wish to attach to
 - Applicant Names, Address and Contact info
 - Provider Names, Address and Contact info
 - Synopsis of Project
 - Meeting if requested by staff, prior to moving to Phase II
 - If new locations are proposed, 30 day calendar review is reset for new locations

Move to Phase II or deny full or partial permit. Incomplete applications will be notified within 30 days

- Phase II (\$250 for up to five sites; +\$50 per additional site) (30 days for colocation; 45 days for new pole)
- Detailed plan set
 - City Coordinate System
 - Include survey of all utilities private and public
 - Location and size of ground equipment

- Stamped by a ND professional Engineer
- Replacement structure or attachment only
- Master Attachment Agreement – No Fee
 - Renewal at 15 years - \$1000
- City Owned Structure in the Right-of-Way Attachment Agreement - \$270 per year per structure
- A complete as-built, in AutoCAD must be submitted to the City at the completion of the project. Failure to do so may result in the forfeiture of the permit.

The City reserves the right to deny any permit due to health, safety or welfare of the community.

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NOTES

TYPICAL INSTALLATION SHOWN.

ALL ELEVATIONS ARE ASSUMED TO BE MEASURED FROM ABOVE GRADE LEVEL.

VERICON CONTRACTOR TO MAINTAIN A MINIMUM EQUIPMENT HEIGHT OF 12'-0" AGL.

PROPOSED ELECTRIC RECEPTACLE TO BE INSTALLED AT 10'-0" AGL, VERIFY WITH FINAL APPROVED POLE DRAWINGS.

PROPOSED POLE DESIGN BASED ON DRAWING # 10388801P1 BY VALJACINT, VERIFY FINAL POLE DESIGN WITH FINAL DRAWINGS AND POLE MANUFACTURER.

REPLACED POLES ARE TO BE SALVAGED AND DELIVERED TO PUBLIC WORKS.

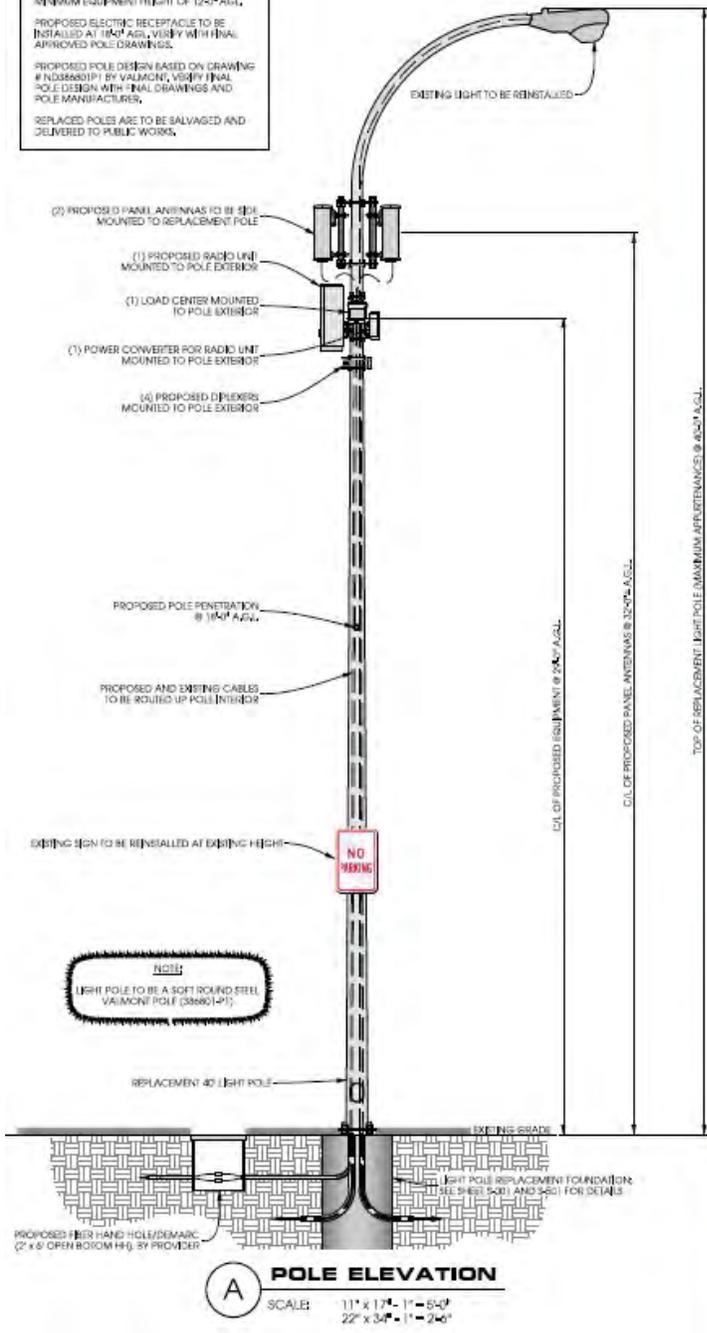


Figure 1 Retrieved from Bismarck Small Cell MAA Dated July 3, 2018 on November 14, 2018