



AGENDA
MANDAN PLANNING & ZONING COMMISSION
COMMISSION ROOM 5:30 P.M.
JANUARY 28, 2019

Roll Call, Reading and Approval of the December 19, 2018 minutes.

PUBLIC HEARINGS

1. Consider Ordinance No. 1291 to amend and re-enact Sec. 101-1-3, 105-1-4 (c) (2), and Sec. 105-4-1 (2) (a) and (b) of the Mandan Municipal Code related to the sale of fireworks and placement of fireworks stands.

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

2. Consider Ordinance No. 1299 to amend and re-enact Section 101-1-3 and 105-1-5 (e) of the Mandan Municipal Code related to Cremation Facilities.

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

3. Consider an ordinance to amend and re-enact Sec. 6-1-6 related to possession of animals and enact Sec. 105-1-16 related to possession and care of chickens within city limits.

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

4. 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

5. A request from Mitzel Builders, Inc. for approval of a master subdivision plat of the proposed Lakewood 10th Addition. Said addition is an unplatted portion of Outlot A in the east ½ in Section 1, Township 138N, Range 81W, in the City of Mandan, of the 5th Principal Meridian, Morton County, North Dakota. The property is located in the McKenzie Drive SE & Oxbow Trail SE area.

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

MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL BUILDING
DECEMBER 19, 2018

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall on December 19, 2018, at 5:30 p.m. CDT.

ROLL CALL

Commissioners Present: Boehm, Klein, Leingang, Laber, Liepitz, Renner, Camisa, Robinson

Commissioners Absent: Klemisch, Knoll, Helbling, Frank

Commissioner Renner has a couple corrections to the November 26, 2018 minutes. The minutes say the labeling of 16th Street should say NE and not NW. It needs to be corrected to say 8th Ave NE (*page 2*). Also, Commissioner Leingang voted nay on that vote. Nancy will make the changes to the minutes.

Commissioner Leingang motions to approve the November 26, 2018 minutes. Commissioner Laber seconds. Upon vote, the motion passes unanimously.

PUBLIC HEARINGS

1. A request from Premier Homes, Inc. / GMV, LLP for approval of a PUD (Planned Unit Development) amendment to Ordinance No. 1187. Said property is lots 1-25, 36-64, Block 1, Lakewood Commercial Park 2nd Replat and Lots 1-6, Block 1, Lakewood Commercial Cove 1st Addition 1st Replat in Section 6, Township 138N, Range 80W, in the City of Mandan, of the 5th Principal Meridian, Morton County, North Dakota. The property is located in the 2400-2600 Blocks of 46th Avenue SE.

A. Staff report.

John Van Dyke, City Planner, describes the item. John says GMV wants to pull this from the agenda and possibly review it in January.

B. Open public discussion.

C. Close public discussion.

D. Commission's actions.

Commissioner Leingang motions to table the item. Commissioner Laber seconds. Upon vote, the motion passes unanimously.

2. Consider Ordinance No. 1291 to amend and re-enact Sec. 101-1-3, 105-1-4 (c) (2), and Sec. 105-4-1 (2) (a) and (b) of the Mandan Municipal Code related to the sale of fireworks and placement of fireworks stands.

A. Staff report.

John Van Dyke, City Planner, describes the item. The confusion with fireworks stand sales in the ETA led to complaints and questions. John reached out to various agencies and staff with Morton County and the City of Mandan to determine an appropriate process where they should be located. A draft of the ordinance is included in the packet. The standards listed for the fireworks stands include they be located outside corporate limits in a contained structure, require city permit, county permit (outside of this ordinance) and the state required retailers permit. Must have a minimum of 1600 square feet dedicated to customer parking. Additional parking may be required at the discretion of the city building official. They need to have a minimum of a 500' setback of flammable and hazardous materials and a 500' minimum setback from a residential dwelling. The stands would be allowed anywhere Retail Group A would be allowed (all the commercial districts), as well as the MA & MC Industrial, and Agricultural district for parcels greater than 20,000 square feet.

B. Open public discussion.

Chair Robinson asks if and how this would impact any existing retailers. John says there are a couple that would not meet this criteria.

There is discussion if the current retailers with permanent structures can be grandfathered in or should adjustments to the ordinance be made?

Commissioner Laber is concerned with how to balance this issue. The city police and fire do not have jurisdiction over this because it's in the county. Are we overreaching? Can we opt not to exercise zoning this time? John doubts we can ala cart zoning jurisdiction. He thinks the city should adapt the same regulations with the county.

Commissioner Renner asks what the county's procedure is right now. Do they have an ordinance?

Sheriff Kirkmeyer, "To answer your question, it's required in state law and ND Century Code that the sheriff issues the fireworks permit. The fire marshal issues it for distributors and the sheriff issues it for retailers. I've received three applications so far for fireworks over Christmas/New Years' time and one is Memory Fireworks, 2600 South 1806, which is a building we're talking about, Flying O at 2789 Highway 1806, then you have Big Top, which is 3711 Highway 6th South. They are all in the ETA. Their under the jurisdiction of the county for law enforcement and rural fire for responding to fires. This is where the confusion comes in. I want to work with the city. I don't want it in a residential area. We want it commercial or agricultural. Someplace people can get to it and still do business without causing problems in a residential area. We had an incident up north a year or two ago about somebody trying to sell fireworks out of a front yard. This is where this kind of stems from. I work with both the county and city to make sure we are all on the same page when we do this. It's all in the jurisdiction of the county and rural fire. There's not an ordinance and that's why we go by what Natalie, Planning & Zoning has. That's what I go by issuing a permit. Just to make sure it's not in a residential area. If it was commercial or agricultural, then we issued it in the past. We don't know... if the city wants to issue a separate permit you could do that, but it doesn't overwrite the state statute that says it comes from me, or the sheriff. We got on the same page and it's a safety for everybody."

Andy Zachmeier, Morton County Commission and Planning & Zoning Board, "Right now we only have our Planning & Zoning ordinance which basically states that fireworks are only allowed in industrial or agricultural areas by special use permit. The setbacks from any type

of house it's about the line on the map. Are they properly zoned for the location they are asking for? North 1806 there is an industrial area and Big Top, I believe, got the lease to be on that property. Then they worked with the county, followed all the rules. Then came fireworks stand in the middle of a residential district. Then you also had where there was a fire danger where fireworks weren't allowed to be detonated. That's where complaints came into the county. Why is this being done in a residential zone? Who's got jurisdiction. I have no problem how this ordinance is written because it does address the main goal which is not to have fireworks sales in a residential area. Five hundred feet? I think that would go more than fire code. I don't have a problem with the 500', but I also understand someone that built a building to sell fireworks to all of sudden be encroached upon. Is that that 500'? How can that be changed within the city? That I don't have an answer for, but I can see where the city is concerned and I know Mayor Helbling is concerned about that. If Mandan ever annexed that building, they couldn't sell fireworks in it anyway, which is what I believe has happened in Bismarck. As the City of Bismarck grows and they annex a building that was built as a fireworks stand and as a storage unit in the off season, they are not allowed to sell fireworks anymore because they are in the city limits of Bismarck. They are going to lose their rights to sell fireworks eventually anyway if Mandan ever annexes them in. I think the fireworks stand people right now, since they are in county territory, is 100', 200' going to be sufficient enough? Grandfather clause. I know that's a possibility, but when does that ever end? How does that be equal protection to someone else? South on 1806 I know there is another one with a fireworks stand in the middle of their yard. I believe their probably zoned Ag. Front yard and their home within 500' away, anyone else's home and it's not zoned residential, I see a problem with it. There is a farmstead south of Mandan too in the area of the post where they had a fireworks stand right in their driveway but there's nobody else around them. So, I don't see where the ordinance would necessarily affect them. Fireworks is just the tip of this. Extraterritorial zoning and how to enforce it, there's another complaint that the county has received over junk accumulation on Sunny Road. Now there's an attorney general's opinion, its letter 2014LO6, stating the county is supposed to take care of any nuisance ordinances even though the city had zoning authority. There was also the argument made that the city didn't have to follow county zoning whatsoever, so it becomes unzoned. Is somebody's residential district void? Is somebody's Ag project void? Last meeting there was talk about the city introducing poultry as an allowable use in the city. This all goes to extraterritorial. This is what upsets people in the extraterritorial, not just in Mandan, but its state wide. It's a big topic at the Association of Counties Convention. Cities are ignoring people in the extraterritorial. They won't take their phone calls, or if they do, they're not given their proper due. They get ignored at Planning & Zoning meetings, they get ignored at City Council meetings. They are told you are not our constituents. If the city ever annexed them in, they're not going to be very happy. They're going to fight the annexation and where do they go? The county commission. If the county votes to support them, then city council says it's the county fighting the city by not allowing them to grow. I think it's simple. If it's in county extraterritorial you follow county zoning as best you can until it is annexed and the city changes it."

Commissioner Liepitz asks John what Fire Chief Nardello's thoughts were when John met with him. John says Chief Nardello's main concern was keeping the retailers from creeping into the city. He does not want his guys to have to inspect these establishments.

John asks Rural Fire Chief Gustin to speak about the 500 feet setback and if he thinks it can be reduced.

Fire Chief Gustin says there is no minimum setback in the fire code for these retailers. He can check with the State Fire Marshal for their input.

The commissioners further discuss how to proceed with setbacks and the existing establishments that wouldn't meet the criteria. Should they be grandfathered in?

Chad Neff, Memory Fireworks, "The State Marshal, from my knowledge, don't have any setback requirements. They have this is what's safe and what isn't. We have a store in Devil's Lake that's in city limits. Right next to us is a state owned building, it's actually a police building and we're probably 75' from their building. We can only keep our fireworks in there during the sale period. They give us a two month window. We're putting up a new building in north Bismarck and met with the state marshal on that over our sprinkler system because we're at over 20,000 square feet. There was no 100% set guidelines for fireworks. It's a large grey area what they think is suitable for that area and each situation. As far as I know there is no setback requirements. We've never had a big incident in 35 years that we've been in business. Five hundred feet is a large area. I would like to see it allowed in light industrial, commercial, and Ag outside of city limits and that's it. That's where you can go without any setback requirements. It would cause a lot of stress to guess are you 450', 500'. The sheriffs and fire department come out and inspect our building, make sure we have the things to put out small fires to keep it safe, no smoking signs. Our staff is trained if they see somebody coming in with a cigarette they stop them. That location by the Humane Society we rented from Elmer. He said it was Ag. We didn't know it was residential. He still farms it."

John says the reasoning behind the 500' setback had to do with the nature of parking and traffic with a pop-up retailer. It wasn't just the hazard issue.

Jordan Hauck, Big Top Fireworks, "I've been in the business for 23 years. Big Top has been in Mandan for 30 years. I've owned the business for 12 years so I don't feel I should be deemed as temporary or pop up. I feel like a permanent part of this city. I have two tents. One is located north of the Humane Society by the old Zachmeier manufacturing building. The other one is at The Post. I have always gotten the proper permits. I've never set up in a residential front yard. I feel what we're doing here is helping the people that have the permanent structures. How is that fair to me? The tents I have are approved by the fire marshal. There are tags on them. I know because I own the tent rental company where they are rented from. They don't start on fire. Tents don't start on fire. They essentially melt."

There is discussion on the application and permit details. John will remove the 500' setback requirement from a residence.

C. Close public discussion.

D. Commission's action.

Commissioner Leingang motions to table until the next meeting so details can be constructed on a permit. Commissioner Laber seconds. Upon vote, the motion passes unanimously.

OTHER BUSINESS

1. Update on Ordinance No. 1301 amending and re-enacting portions of Subpart B – Land Development and Public Services of the Mandan Municipal Code related to Telecommunications Facilities (Small Cells).

John Van Dyke says staff met with Verizon. The providers were very fee focused. The fee guideline was set at \$270 per year per pole/fixture. They indicated they would not be doing business with Mandan unless it was \$175 or less. John says the fee adversity from the providers was brought up at the League of Cities. The fee structure we have established is approved by the FCC regulations, which is capped at \$270. He points out we are also going into unknown territory. He says the fees can always be adjusted down, but once a contract is in place it is a 10 year contract. Public Works does not yet know how this will impact maintenance activity. City of Bismarck is at \$150. Before the FCC cap, Fargo, Grand Forks and Williston were upwards of \$1000. He will make changes to the ordinance, suggested by Commissioner Laber, and bring it back next month.

Commissioner Camisa leaves at 6:50 p.m.

2. Appointment of Chair, Vice Chair and Secretary.

Commissioner Leingang motions to keep Bill Robinson as President, Karl Liepitz as Vice President and Nancy Moser as Secretary. Commissioner Klein seconds. Upon vote, the motion passes unanimously.

3. 2019 Meeting Dates. Dates in red fall on or near a holiday and should be rescheduled:

January 28
February 25
March 25
April 22
May 27 (Memorial Day)
June 24
July 22
August 26
September 23
October 28
November 25
December 23 (Christmas week)

Commissioner Leingang motions to change the May meeting to the 29th and the December meeting to the 18th. Commissioner Klein seconds. Upon vote, the motion passes unanimously.

Commissioner Laber motions to adjourn. Commissioner Leingang seconds. Motion passes unanimously.

Meeting adjourns at 6:59 p.m.

PUBLIC HEARING # 1

PUBLIC HEARING # 1

Mandan Planning and Zoning Commission Agenda Item PH1
 For Meeting on January 28, 2019
 Mandan Engineering and Planning Office Report
City of Mandan – Fireworks
 Requested Action
Ordinance Text/Map Amendment

Application Details				
Applicant N/a	Owner N/a	Subdivision N/a	Legal Description Extra-territorial Area	
Location Extra-territorial Area		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
Fees N/a	Date Paid N/a	Adjacent Property Notification Sent N/a	Legal Notices Published 01/11/2019 & 01/18/2019	

Project Description
<p>Fireworks sales around the City of Mandan have been contentious for both residents and retailers due in large part to the lack of specific regulation surrounding where retailers can conduct the sale of fireworks. Complaints have been received from the public regarding their location, traffic, or simple distaste for the activity itself being so close to residential areas. In contrast, the retailers are left with last-minute, often stressful situations in terms of identifying an appropriate location. This ordinance will firmly define where these stands are allowable and provide retailers the opportunity well in advance of the fireworks season to identify an appropriate location to conduct their business.</p> <p>In summary:</p> <p>The proposed ordinance amendment defines fireworks to align with North Dakota Century Code. It also defines fireworks stands, which includes specific requirements that must be met.</p> <p>Fireworks stands would be allowed in Agricultural zones on property 20,000 sq. ft. (approx. ½ acre) or larger or where the Retail group A use group is allowed (CA/CB/CC Commercial and MA/MC Industrial Districts).</p> <p>Fireworks stands would not be permissible within corporate limits; only permitted within the extra-territorial area.</p>
<p style="text-align: center;">Agency & Other Department Comments</p> <p>Staff met on a few occasions during and after the fireworks season to discuss this issue. Input was received from several departments including Fire and Building. Commissioner Rohr and Administrator Neubauer were also present for the discussion.</p> <p>Follow-up with Natalie Pierce, Morton County Planning and Zoning Director, Malcolm Brown, City Attorney, and Lynn Gustin, Mandan Rural Fire Chief via Chief Nardello was conducted between late October and November 2018.</p> <p>This ordinance incorporates all of the above input as well as the recommendations of the Planning and Zoning Commission to remove any setback distance from residences at the December 19, 2018.</p>
<p style="text-align: center;">Engineering & Planning Staff Comments</p> <p>Engineering and Planning believe this will help reduce confusion and associated inquiries to City staff and elected/appointed officials for the up-coming season.</p>

Engineering & Planning Recommendation

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

Proposed Motion

Move to recommend approval of Ordinance 1291 as presented in Exhibit 1.

List of Exhibits:

Exhibit 1 – DRAFT Ordinance 1291 – Fireworks and Fireworks Stands

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

Exhibit 3 – Application for Firework Stands Temporary Use Permit

Exhibit 4 – Proposed Mandan Temporary Use Permit

Exhibit 5 – Morton County Code – Use Table

Exhibit 1 - Proposed Ordinance 1291

ORDINANCE NO. 1291

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

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

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

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

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

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

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

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

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

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

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

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

v. Fireworks stand.

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

(2) *Uses permitted.*

a. The following uses are permitted:

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

16. Fireworks stand.

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

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

11. Oil or gas well.

12. Fireworks stand.

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

Timothy A. Helbling, President
Board of City Commissioners

Attest:

James Neubauer,
City Administrator

First Consideration:

January 22, 2019

Second Consideration and Final Passage:

February 5, 2019

Exhibit 2 - Additional Information Obtained between October and November 2018

Update on Fireworks

Additional Information Requested/Questions Asked at Previous Meeting:

Enforcement Authority in the ETA?

Summary of AG opinion received by Attorney Brown:

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

Rural Fire Opinion

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

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

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

Morton County Process and Comment

Industrial/Ag zone permissible with temporary use permit

Response from Natalie Pierce, Morton County Planning Director

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

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

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

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

Exhibit 3 - Morton County Temporary Use Application

MORTON COUNTY TEMPORARY USE APPLICATION

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

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

USE INFORMATION

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

CONTACT INFORMATION

Applicant/Organizer

Name:	Phone:	Email:
Mailing Address:		

Property owner (if different than applicant/organizer)

Name:	Phone:	Email:
Mailing Address:		

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

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

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

MORTON COUNTY DEVELOPMENT APPLICATION CHECKLIST

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

Temporary Use Permit *Submitted with application for temporary use*

- Morton County Land Use Code,
Section 10-050
- Fee of: \$50
 - Any information requested by the zoning administrator to ensure that the proposed temporary use meets the terms and conditions of the land use code.

APPROVAL CRITERIA

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

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

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

Exhibit 4 - Mandan Temporary Use Application

CITY OF MANDAN TEMPORARY USE APPLICATION

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

USE INFORMATION

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

CONTACT INFORMATION

Applicant/Organizer

Name:	Phone:	Email:
Mailing Address:		

Property owner (if different than applicant/organizer)

Name:	Phone:	Email:
Mailing Address:		

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

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

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

CITY OF MANDAN DEVELOPMENT APPLICATION CHECKLIST

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

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

APPROVAL CRITERIA

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

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

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

 Building Official Signature:

 Date

 City Engineer Signature:

 Date

 City Planner Signature:

 Date

Exhibit 5 - Morton County Land Use Table

Section 2-200 Use Table

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

(a) Use Categories

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

Section 2-200 | Use Table

Zoning Districts

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

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

Section 2-200 | Use Table

Zoning Districts

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

Arts, Entertainment and Recreational Uses

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

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

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

Section 2-200 | Use Table

Zoning Districts

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

Institutional Uses

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

Industrial Uses

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

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

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

Section 2-200 | Use Table

Zoning Districts

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

Transportation-Related Uses

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

Section 2-200 | Use Table

Zoning Districts

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

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

Temporary Uses

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

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

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

PUBLIC HEARING #2

PUBLIC HEARING #2

Mandan Planning and Zoning Commission Agenda Item PH2
 For Meeting on January 28, 2019
 Mandan Engineering and Planning Office Report
Crematoriums
 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 1/11/2019 & 1/19/2019	

Project Description
<p>Ordinance 1299 clarifies placement requirements for crematoriums.</p> <p>Presently, crematoriums are defined as part of a funeral home or mortuary. These uses are allowed in Commercial and the MA/MC industrial districts. Setbacks are determined by the respective zone; in some cases zero feet. In contrast, <u>public</u> crematoriums are required to be located in agricultural and industrial districts with a 200 foot setback.</p> <p>The proposed ordinance provides a new definition for crematoriums that requires them to be an accessory use to a legally existing mortuary, funeral home, columbarium, or cemetery. They would not be allowed to operate as the primary use on a property. In addition, “facilities for cremation” is removed from the definition of funeral home or mortuary. The standards applied to public mausoleums, columbariums, and cemetery chapels are now applied to both public and private facilities. These include being limited to industrial or agricultural zones with an additional restriction of a 300’ setback from the property line.</p> <p>Bismarck ordinance allows them as accessory to funeral home operations as well as through a special use permit as part of a cemetery. Minneapolis requires crematoriums to be located within a cemetery and 1,000 ft. setback from a property line. Denver requires crematoriums to be a part of a cemetery, with a minimum 500 ft. setback from a residential district.</p> <p>The confusing language within the ordinance that appears to apply different standards for a use solely based on being a public or private activity doesn’t adequately mitigate the negative impacts of the use. By applying the same standards to both public and private entities for this use adjacent property owners have the opportunity to be involved in the process stemming from any application.</p> <p>In addition, following the November Planning and Zoning hearing, staff was asked to seek comment by local funeral homes. Staff received comments from all three local funeral homes which are provided in Exhibits 1-3.</p> <p>Buehler Larson Funeral Home indicated that rather than the 200 feet that was originally recommended by staff as presented at the November P&Z hearing, 300 feet was more appropriate and in-line with other communities within and outside North Dakota (See Exhibit 3).</p>

David Wise has provided comment that included several suggestions for definitions and the suggestion to consider crematoriums separately from cemeteries, mausoleums, and columbariums. David Wise also noted alkali hydrolysis, which is an alternative, liquid-chemical process to process remains (See Exhibit 1).

Mr. Tom Wiegel provided comments in-person and later via a phone call stating that crematoriums should be allowed only in the Industrial and Agricultural zones and located no closer than 300 feet to a residential or commercial property line. Mr. Wiegel noted that while technological improvements have been made that reduce emissions, emissions are still a factor. Also, that crematoriums produce a substantial amount of noise (See Exhibit 2).

The ordinance as presented in Exhibit 4 incorporates many of the suggested changes by local funeral homes.

Agency & Other Department Comments

No agency or other department comments were received for the proposed ordinance.

Engineering & Planning Recommendation

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

Proposed Motion

Move to recommend approval of Ordinance 1299 as presented in Exhibit 4.

List of Exhibits:

Exhibit 1 – DaWisePerry Comment

Exhibit 2 – Mr. Tom Wiegel, Wiegel Funeral Home Comment

Exhibit 3 – Buehler Larson Funeral Home Comment

Exhibit 4 – Ordinance 1299 – Crematoriums

EXHIBIT 1 - DAWISE PERRY FUNERAL HOME COMMENT

From: [David Wise](#)
To: [John W. Van Dyke](#)
Subject: Crematory
Date: Tuesday, December 04, 2018 1:13:15 PM

DaWise-Perry Funeral Service

Begin forwarded message:

From: "David Wise" <david@dawiseperry.com>
Date: December 4, 2018 at 1:32:19 AM CST
To: <erica.bertman@gmail.com>, <david@dawiseperry.com>
Subject: Terminology

Sec. 101-1-3

Crematorium or Crematory means the establishment for final disposition of deceased remains, either human or pet, by thermal, mechanical, or other dissolution process that reduces remains to bone fragments.

Section 2. Sec. 101-1-3

Funeral Home or Mortuary means a facility for the care and custody for the pre-disposition of deceased human remains, including the sale of services and merchandise for burial, cremation, and other related items, including offices, viewing rooms, chapels, and reception halls for serving the deceased and their families.

Section 3. Sec. 105-1-5 Amended

I believe the term Crematorium or Crematory should be removed from this section and have it's own. Cemetery, Mausoleum, and Columbarium are specific places where long term burial, interment or inurnments take place.

Crematorium or Crematory is the establishment or facility **for final disposition of deceased remains**, either human or pet, by thermal, mechanical, or other dissolution process that reduces remains to bone fragments.

A crematorium or crematory may be permitted in an Industrial, “A” or Commercial District as a special use, Provided that:

1. Shall not be the primary use, i.e. it must be accessory or ancillary to a related and legally existing mortuary, funeral home, columbarium, or cemetery use.
2. There shall be a strip of green area with trees, bushes or shrubs adjacent to any border facing a residential zone and/or public area to minimize view of any stack.
3. It shall be erected at least 200 feet away from a residential zoning district.

4. Alkali Hydrolysis

EXHIBIT 2 - WIEGEL FUNERAL HOME COMMENT

Mr. Tom Wiegel stopped by and discussed with staff in-person and later in a phone call with Principal Planner, John Van Dyke, Principal Planner to provide his thoughts on an ordinance outlining where crematoriums are appropriate. Based on his comments the ordinance should lean more to being restrictive including:

- Industrial or Agricultural zoning only
- 300 feet to residential or commercial property line

Noise and emissions were his biggest concern, indicating that while technological improvements have been made that reduce emissions, there are still emissions and noise will still be a factor.

He also indicated that Dickinson has a funeral home that operates in a commercial area while its crematorium is based in an industrial area off-site. He indicated that they appear to be functioning fine under this situation.

EXHIBIT 3 - BUEHLER LARSON FUNERAL HOME COMMENT

John W. Van Dyke

From: Buehler Larson Funeral Home <info@buehlerlarson.com>
Sent: Friday, December 14, 2018 1:49 PM
To: John W. Van Dyke
Subject: Re: Changes to ordinance surrounding crematoriums

Categories: Red category

John,

Thank you for sending out the letter concerning potential changes to the ordinance surrounding crematoriums. In response, we feel comfortable with the language of the proposed ordinance with the exception of Sec. 3 (5) No crematorium shall be erected within 200 feet of a residential zoning district.

In conclusion of some of our research, many cities within the state and outside of North Dakota require that no crematorium shall be erected within **300 feet** of a residential zoning district. We feel strongly that a minimum 300 ft. "buffer" should be required, especially in light of the strong winds we can face in North Dakota. Also, a suggestion in regards to a crematory location, we feel that the "old shop" at Mandan Union Cemetery could be a very good location for a potential crematorium site. It would meet the distance requirements of any residential zoned area and tie in very well with the new addition of the cremated remains scattering garden at the cemetery.

Sincerely,

Scott Huffman
Nathan Grubb

*Buehler-Larson Funeral Home
1701 Sunset Drive
Mandan, ND 58554
(701) 663-9630
info@buehlerlarson.com*

EXHIBIT 4 - DRAFT ORDINANCE

ORDINANCE NO. 1299

An Ordinance to Amend and Re-enact Sec. 101-1-3 and 105-1-5 (e) of the Mandan Municipal Code related crematoriums

WHEREAS, Changes are necessary to remove conflict within the land-use code related to cremation-related activities

WHEREAS, Clarification is required to ensure health and safety and mitigate potential negative impacts to nearby resident property values

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

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

Insert in Sec. 101-1-3 after the definition for Correctional facility the following:

Crematorium means the establishment for final disposition of deceased remains, either human or pet, by thermal, mechanical, or other dissolution process that reduces remains to bone fragments and is subject to the following requirements:

- a. shall not be the primary use, i.e. it must be accessory or ancillary to a related and legally existing mortuary, funeral home, columbarium, or cemetery use.

Section 2. Sec. 101-1-3, definition for Funeral home or mortuary, is amended to read:

Funeral home or mortuary means a facility for the care and custody for the pre-disposition of deceased human remains, including the sale of services and merchandise for burial, cremation, and other related items, including offices, viewing rooms, chapels, and reception halls for serving the deceased and their families. ~~facility for the pre-burial preparation of human cadavers, including facilities for cremation, and including other areas for offices, purchase of burial items and services, viewing rooms and areas for the conduct of memorial services.~~

Section 3. Sec. 105-1-5 (e) is amended to read:

Cemetery, Mausoleum, Columbarium, and Crematorium. A cemetery, mausoleum, columbarium or crematorium may be permitted in an industrial or A district as a special use, provided that:

- (1) No graves shall be located less than 100 feet distant from any property line;
- (2) There shall be a strip at least 75 feet in width adjacent to all boundaries of the cemetery landscaped and maintained as a green area;

(3) In any cemetery in which there will be permitted monuments and grave markers rising above the surface of the ground, the green area shall include a dense evergreen hedge at least six feet in height; and

(4) No ~~public~~ mausoleum, columbarium, ~~crematory~~ or cemetery chapel shall be erected within 200 feet of any boundary of the lot or parcel on which it is located.

(5) No crematorium shall be erected within 300 feet of a property line.

Section 4. Sec. 101-1-3 and 105-1-5 (e) is amended and re-enacted.

Timothy A. Helbling, President
Board of City Commissioners

Attest:

James Neubauer,
City Administrator

First Consideration:

December 4, 2018

Second Consideration and Final Passage:

December 18, 2018

PUBLIC HEARING #3

PUBLIC HEARING #3

Mandan Planning and Zoning Commission Agenda Item PH3
 For Meeting on January 28, 2019
 Mandan Engineering and Planning Office Report
Chickens
 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 1/18/2019 & 1/25/2019	

Project Description
<p>This ordinance is the product of several residents noting interest in housing chickens in town, more specifically a request by Travis Dengel who provided a brief presentation in Fall 2018.</p> <p>Additional information was provided to Planning and Zoning Commission at another meeting including a brief survey of communities in North Dakota that allow chickens, the number allowed, and commonalities within the ordinances such as disallowing roosters (See Exhibit 2). Also provided were the benefits and consequences of permitting chickens and the means to mitigate negative impacts (See Exhibit 3).</p> <p>Presently, the code does not allow chickens unless as part of a commercial-scale operation. The code as outlined in Exhibit 1 would allow up to four (4) chickens per lot with several restrictions to mitigate negative impacts to neighboring property owners.</p> <p>A preliminary draft ordinance was constructed and sent to city departments and several other agencies for review as is typical for ordinances and development applications. Minor adjustments were made based on feedback from the Building Department, Public Works, and Morton County Planning and Zoning. Exhibit 1 is the ordinance following these minor adjustments.</p> <p>Finally, Exhibit 4 provides an acknowledgement of understanding of the requirements and responsibilities which the applicant and owner will be required to sign prior to the issuance of a permit. This will help ensure compliance as permits are issued.</p>
Agency & Other Department Comments
<p>Comments were received by PD, Fire, Public Works, and Building Departments, as well as Morton County Planning and Zoning. PD and Fire approved without issue. Minor adjustments to the ordinance were made based on Public Works, Building Department, and Morton County Planning and Zoning.</p>
Engineering & Planning Recommendation
<p>Engineering and Planning recommend approval of the zoning ordinance amendment as presented in Exhibit 1.</p>
Proposed Motion
<p>Move to recommend approval of the ordinance related to chickens (# yet assigned) as presented in Exhibit 1.</p>

List of Exhibits:

Exhibit 1 – Ordinance (# yet to be assigned) – Chickens

Exhibit 2 – Sample of ND Ordinances

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

Exhibit 4 – Understanding of Requirements and Responsibilities

ORDINANCE NO. 13XX

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

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

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

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

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

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

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

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

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

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

Sec. 105-1-16 - Chickens

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

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

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

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

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

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

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

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

Exercise yard means a larger area that provides space for exercise and foraging for the birds when supervised.

Hen means a female chicken.

Rooster means a male chicken.

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

(i) Standards

1. No more than four (4) hens shall be permitted on any one lot.
2. Roosters shall not be permitted. As soon as a rooster is identified it shall be culled from the brood.
3. The chickens, coop, and run, shall be located in the rear or side yard obscured from view from any street, trail, public park, or other right-of-way.
4. The coop dimensions shall total less than one-hundred-twenty (120) square feet.
5. Coop height as measured from the average ground elevation to the highest point on the coop shall not exceed eight (8) feet.
6. The coop shall be located no closer than ten (10) feet from the property line and no closer than twenty (20) feet from an adjacent property dwelling.
7. The coop shall be constructed in a manner which prevents rodent infiltration.

8. The coop shall be constructed to provide a minimum of four (4) square feet per chicken.
9. The run shall be constructed to provide a minimum of ten (10) square feet per chicken.
10. Chickens shall at no time be located off the property for which they have been permitted.
11. Coops and manure storage shall be kept 20 feet from streams, tributaries, ditches, storm water management facilities, drop inlets, or other storm drainage areas that would allow fecal matter to enter any city storm drainage system or stream. Dumping chicken manure into the city's storm drainage system is prohibited.
12. Except for chickens properly slaughtered for consumption, dead chickens must be disposed of within 24 hours after death. Legal forms of chicken carcass disposal include burial and off-site incinerate or rendering. All slaughtering of chickens shall be conducted so as not to be visible to the public or adjacent property owners and occupants.
13. All grain and food stored for the use of the chickens shall be kept in a rodent proof container.

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

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

Timothy A. Helbling, President
Board of City Commissioners

Attest:

James Neubauer,
City Administrator

First Consideration:

February 19, 2019

Second Consideration and Final Passage:

March 5, 2019

EXHIBIT 2 - Sample of Communities in ND Allowing Chickens

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

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

Brief Overview of Backyard Chickens

The Pros

Homegrown, organic food source

Provide education regarding the species and lessons on self-sustainability

Pest control – chickens feed on insects in the yard

Source of fertilizer for gardens

The Cons/Means to mitigate

Noise – chickens are animals and inherently make noise.

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

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

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

Odor

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

Visual

- Restrictions to heights of coops and other ancillary structures

EXHIBIT 4

Acknowledgement of Understanding of Requirements and Responsibilities

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

Sec. 105-1-16 - Chickens

- (a) Purpose. It is the purpose of this section to regulate the keeping of chickens at an individual or household scale to promote the health, safety, and general welfare of the citizens of the city. This section in no way applies to commercial production and processing of poultry as regulated in Section 105-3.
- (b) Permit required. A renewable permit issued by the city planner or his/her designee shall be required prior to conducting any keeping of chickens at an individual or household scale. The permit shall be good for one calendar year as measured from the date of issuance and is tied to both the applicant and the land. Permits shall be non-transferrable.
- (c) Revocation. A permit may be revoked by the city planner or his/her designee for failure to comply with the requirements outlined in this section or any other local or state regulation governing keeping or cruelty to animals. Any person whose permit is revoked shall, within ten business days thereafter, humanely dispose of all chickens being owned, kept or harbored by such person, and no part of the application fee shall be refunded.
- (d) Appeal. The permittee may appeal the revocation or refusal of renewal of the permit by timely request for a hearing before the Board of City Commissioners. The request for hearing must be received by the city planner or his/her designee within ten business days following the date of the notice of revocation or refusal of renewal. The Board of City Commissioners shall hold a hearing on the permittee's request for hearing and shall render a final decision on the matter after said hearing.
- (e) Multiple Property Limitation. An applicant owning multiple properties abutting or in close proximity is limited to a single permit. The planner or his/her designee shall make the determination of what is considered "close proximity."
- (f) Application. An application for a permit shall include:
 - 1. General form established by staff to capture applicant, property owner, and property information, including necessary signatures.
 - 2. Property owner and applicant, if different than the property owner, signed understanding of the requirements and responsibilities outlined in this section.

3. Site plan illustrating:
 - a. Property lines and distance to proposed coop and run
 - b. Adjacent residence location and distance to proposed coop and run
 - c. Type and style of back and side yard fence
4. Construction drawings including at least one of the following:
 - a. Materials used in the construction of the coop and run
 - b. Diagram and illustration if provided in a prefabricated kit
5. Fee. A non-refundable application fee as established by the Board of City Commissioners shall be required at the time of application. The Board of City Commissioners may establish a different fee to be applied to new applications and renewal applications.

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

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

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Exercise yard means a larger fenced area that provides space for exercise and foraging for the birds when supervised.

Hen means a female chicken.

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(i) Standards

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

2. Roosters shall not be permitted. As soon as a rooster is identified it shall be culled from the brood.
3. The chickens, coop, and run, shall be located in the rear or side yard obscured from view from any street.
4. The coop dimensions shall total less than one-hundred-twenty square feet.
5. Coop height as measured from the average ground elevation to the highest point on the coop shall not exceed five (5) feet.
6. The coop shall be located no closer than ten (10) feet from the property line and no closer than twenty (20) feet from an adjacent property dwelling.
7. The coop shall be constructed in a manner which prevents rodent infiltration.
8. The coop shall be constructed to provide a minimum of four (4) square feet per chicken.
9. The run shall be constructed to provide a minimum of ten (10) square feet per chicken.
10. Coops and manure storage shall be kept 20 feet from streams, tributaries, ditches, storm water management facilities, drop inlets, or other storm drainage areas that would allow fecal matter to enter any city storm drainage system or stream. Dumping chicken manure into the city's storm drainage system is prohibited.
11. Except for chickens properly slaughtered for consumption, dead chickens must be disposed of within 24 hours after death. Legal forms of chicken carcass disposal include burial and off-site incinerate or rendering. All slaughtering of chickens shall be conducted so as not to be visible to the public or adjacent property owners and occupants.
12. All grain and food stored for the use of the chickens shall be kept in a rodent proof container.

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

Applicant Signature: _____ Date: _____

**Property
Owner** Signature: _____ Date: _____

PUBLIC HEARING #4

PUBLIC HEARING #4

Mandan Planning and Zoning Commission Agenda Item PH4
 For Meeting on January 28, 2019
 Mandan Engineering and Planning Office Report
City of Mandan – 5G Telecommunications (Small Cell)/R3.2 Modifications
 Requested Action
Ordinance Text/Map Amendment

Application Details				
Applicant	Owner	Subdivision	Legal Description	
N/a	N/a	N/a	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
Fees N/a	Date Paid N/a	Adjacent Property Notification Sent N/a	Legal Notices Published 1/18/2019 & 1/25/2019	

Project Description
<p>Ordinance 1301 surrounds two primary topics: 1) 5G Telecommunication facilities (Small Cells); and 2) Modifications to the R3.2 Residential District.</p> <p>5G Telecommunication facilities:</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>The modifications also include changes following review and comment by Verizon Wireless staff and Commissioner Laber.</p> <p>Other telecommunication:</p> <p>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</p>

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 those in Mandan today.

R3.2 Residential District:

Changes to residential districts were carried out in 2016. These changes included limiting the number of single-family residences to 10% of the total number of lots within a subdivision in the R3.2 Residential District; all other residences within this district are required to be twin home construction. Areas, such as Macedonia Hills, were platted prior to the 2016 ordinance change with the intent to allow a combination of single-family and twin home construction. Multiple inquiries from lot owners and real estate agents over the past few months brought attention to this particular restriction in the R3.2 Residential district. Inquirers expressed surprise and anger with the inability to construct residences on lots were not designed to be for twin homes.

The proposed changes remove the 10% clause, add a definition of a twin home, and clarify side setbacks for both twin homes and single-family dwellings. In review of the staff report, minutes to the meetings, and discussion with staff present at the time of the change to the R3.2 District, no reasoning can be found as to why the changes were made in 2016.

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.

R3.2 Residential District:

The Building Department has expressed the desire to remove the 10% clause, as they see no value and current computer tracking software does not allow them to track number of residences by subdivision. This means inadvertent issuance of permits is probable.

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.

R3.2 Residential District:

Ordinance 1301 removes the City from monitoring the 10% maximum number of lots and allows each property within the district the same entitlements.

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 & R3.2 Residential Districts

Exhibit 2 – Wireless Facilities Guidelines

Exhibit 3 – Pictures of Small Cells Wireless Infrastructure

Exhibit 1 - Ordinance 1301 - Telecommunications Facilities

ORDINANCE NO. 1301

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. Chapter 115 is hereby renamed as follows:

Chapter 115 — STREETSRIGHT-OF-WAY

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.

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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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.

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

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

Section 16. 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.

Section 17. Enacted. Section 105-1-5 (k) 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:

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

Section 18. 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. ~~in a zero side yard setback configuration resulting in structures containing two dwelling units commonly called twin homes that straddle a lot line.~~
- (b) *Primary uses.* The following uses are permitted:
 - (1) ~~Zero side yard setback single family dwelling unit in a structure with two dwelling units located on two adjacent lots~~ Twin home.

- (2) ~~Structures with one s~~Single-family dwelling_ unit located on no more than ten percent of the lots in the subdivision.
- a.—The minimum side yard setback for lots where the adjacent lot is undeveloped shall be five feet.
- b.—For lots where the adjacent lot has been developed, the new principal structure must have a sufficient side yard setback to be at least ten feet from the principal structure on the adjacent lot.
- e.—The minimum setback shall result in the roof overhang being at least one foot back from the property line.
- (c) *Secondary uses.* A group dwelling for six or fewer individuals with developmental disabilities as defined in NDCC 25-16-14 is a permitted secondary use. This use requires one additional on-site mobility impaired parking space.
- (d) *Conditional uses.* These uses are permitted on a specific site only after review and approval by the planning and zoning commission and ratification by the city commission. ~~A PUD district will be created to document any conditional use approval.~~
- (1) Public recreation group.
 - (2) Education group.
 - (3) Utility service group.
 - (4) Religion group.
- (e) *Setbacks.*
- (1) Lots fronting on an arterial or collector street as designated on road network maps produced by the metropolitan planning organization are discouraged. If lots must front on roads with these designations, the front yard setback is increased.
 - a. The minimum front yard setback for an arterial roadway is 50 feet.
 - b. The minimum front yard setback for a collector street is 25 feet.
 - c. The minimum front yard setback for a local street is eight feet.
 - d. The required front yard setback for each lot shall be determined during the platting process and shall be documented in a development agreement that is signed and recorded.
 - (2) For a side yard that fronts on a public right-of-way, the minimum setback is the same as the front yard. For all other situations the minimum side yard setback is five feet. The side yard setback shall apply to both sides for a single-family dwelling and one side for a twin home.
 - (3) The minimum rear yard setback is 20 feet.
 - (4) Any portion of a structure containing a garage door facing a public street, alley or private access easement must be set back at least 25 feet.
- (f) *Lot coverage.* The perimeter of the ground or first floor of each structure shall be used when computing lot coverage. Lot coverage for all structures shall not exceed 50 percent of the

square foot area of the lot. For water lots the computation shall be made using the portion of the lot that is above the shore line.

- (g) *Lot area.* The minimum lot area shall be 3,200 square feet.
- (h) *Lot frontage.* Each lot shall have a minimum of 20 feet of frontage along a public street or private access easement configured in conformance with fire code emergency access standards.
- (i) *Building height limits.* Principal building height shall be limited to three stories. Accessory buildings shall be limited to two stories.
- (j) *Parking.* At least two parking spaces shall be provided per lot. This includes garage spaces and exterior spaces measuring at least 25 feet long.

(Ord. No. 1242, § 5, 12-20-2016)

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.
- i. Public recreation group.
- j. Railroad line trackage.
- k. 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.
- l. 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.

n. 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.
- l. *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.

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(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 19. 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 20. 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

First Consideration:

December 18, 2018

Second Consideration and Final Passage:

January 8, 2019

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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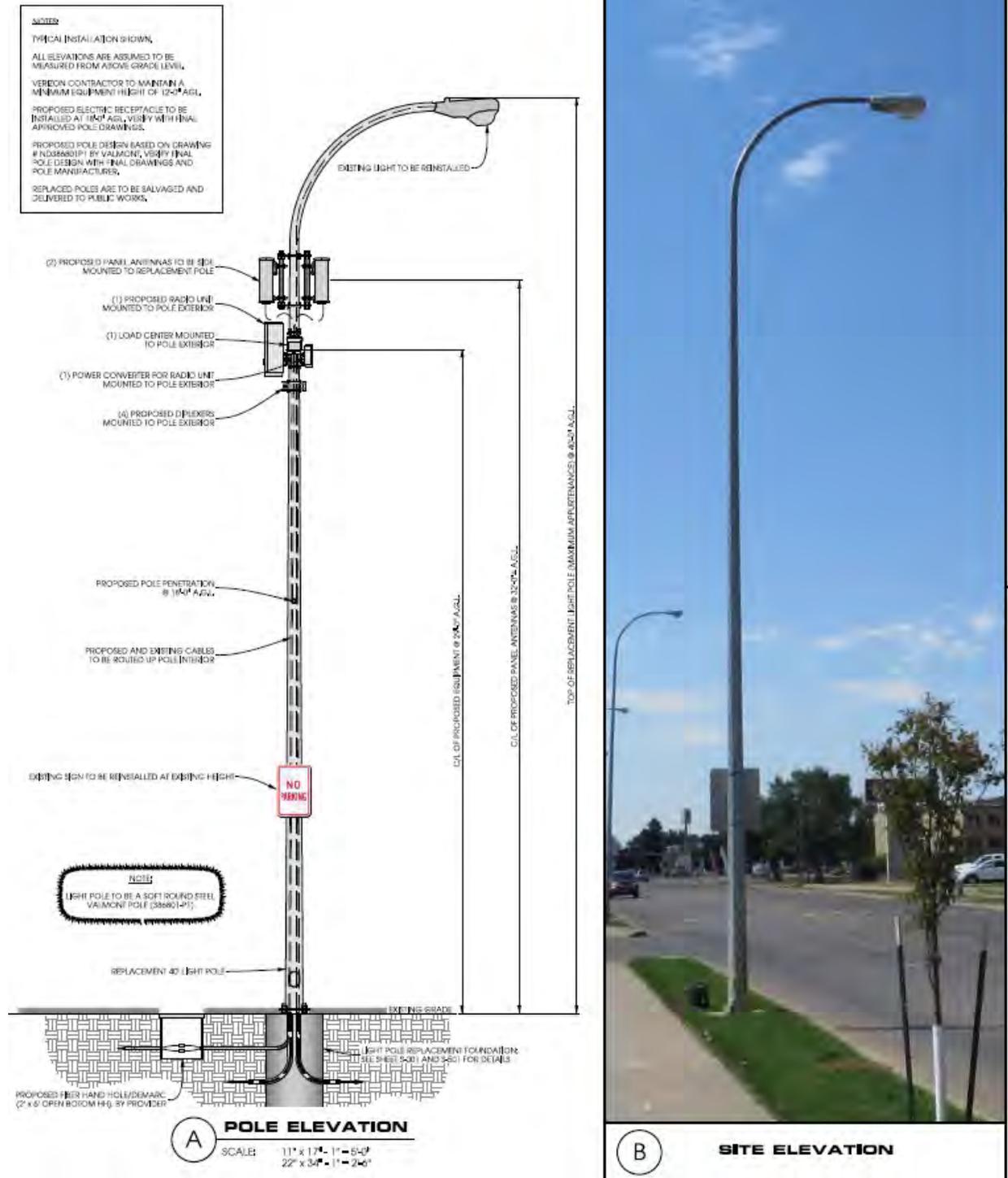


Figure 1 Retrieved from Bismarck Small Cell MAA Dated July 3, 2018 on November 14, 2018

PUBLIC HEARING #5

PUBLIC HEARING #5

Mandan Planning and Zoning Commission Agenda Item PH5
 For Meeting on January 28, 2019
 Mandan Engineering and Planning Office Report
Lakewood 10th Master Planned Subdivision
 Requested Action
Master Plan Review/Recommendation for Approval

Application Details				
Applicant	Owner	Subdivision	Legal Description	
Mountain Plains, LLC/Kevin G. Nelson, PE, PLS/Brian J. Zuroff, PE	Mitzel Builders, Inc./Leeroy Mitzel – Owner/Developer	N/a	An unplatted portion of Outlot A in the east ½ of Section 1, Township 138N, Range 81W, located in the McKenzie Drive SE & Oxbow Trail SE area.	
Location		Proposed Land Use	Parcel Size	Number of Lots
SE Mandan – West of Wastewater Treatment Plant; East of the Lower Heart		Single Family Residences/Manufactured Home Park/Storage Units	N/a	N/a
Existing Land Use	Adjacent Land Uses		Current Zoning	Proposed Zoning
Open Space	Residential/Commercial/Wastewater Treatment Plant		N/a	N/a
Fees	Date Paid	Adjacent Property Notification Sent	Legal Notices Published	
N/a	N/a	N/a	1/11/2019 & 1/19/2019	

Project Description
<p>Mitzel Builders, Inc. has submitted an application for a master planned subdivision for an area west of the wastewater treatment plant and east of the Lower Heart River.</p> <p>Exhibit 1 shows the existing parcel boundaries, property owners, and proposed zoning/land-use for the parcels involved in the proposed master planned subdivision. Uses include single-family residences (R-7), manufactured home park (RH), and self-storage.</p> <p>The majority of the area lies within the special flood hazard area (SFHA), or where there is a 1 percent annual chance of being inundated by flood waters (See Exhibits 2, 3, and 4). This is also commonly known as the 100-year floodplain. The area is also in close proximity to the Lower Heart River levee system, which abuts several of the properties subject to the master planned subdivision.</p> <p>The future land-use specified for this area is open space (See Exhibit 6). Exhibit 7 provides several pages from the Mandan Land Use and Transportation Plan (final adoption in June 2015) related to open space. Pertinent portions of each page are highlighted for ease of reference.</p>
Agency & Other Department Comments
<p>Public Works – Further development will contribute to the already numerous complaints of odors stemming from the wastewater treatment plant.</p> <p>ND State Water Commission – The State Floodplain Coordinator’s comments can be viewed in Exhibit 5.</p>
Engineering & Planning Recommendation
<p>The master planned subdivision as proposed does not align with the Mandan Land Use and Transportation Plan map for the area or Goal 1, Policy 4. In addition, there are two studies in-process that may impact any</p>

development that may follow – the US Army Corp of Engineers levee recertification and the FEMA/ND State Water Commission remapping of the floodplain that affects this property.

Engineering and Planning recommend denial of the proposed Lakewood 10th master planned Subdivision for the following reasons:

1. The proposed master planned subdivision does not align with the Future Land Use Map, which denotes Open Space (See Exhibit 6).
2. The proposed master planned subdivision does not align with Goal 1, Policy 4, specifically related to protection of sensitive natural features (See Exhibit 7).
3. The proposed master planned area includes property that is subject to remapping efforts in-process by the Federal Emergency Management Agency/North Dakota State Water Commission which may have significant impacts on how the property can or should be developed, if at all.
4. The proposed master planned area includes property that is affected by a United States Army Corps of Engineering levee recertification which may have significant impacts on how the property can or should be developed, if at all.
5. The City of Mandan's construction standards that apply following removal from the floodplain based on fill (LOMR-F) do not adequately address basement construction and create the potential for increased loss of life and property and therefore more intense development is inappropriate until changes to the floodplain ordinance have been adopted.

Proposed Motion

I move to recommend denial of the proposed Lakewood 10th master planned Subdivision for the following reasons:

1. The proposed master planned subdivision does not align with the Future Land Use Map, which denotes Open Space (See Exhibit 6).
2. The proposed master planned subdivision does not align with Goal 1, Policy 4, specifically related to protection of sensitive natural features (See Exhibit 7).
3. The proposed master planned area includes property that is subject to remapping efforts in-process by the Federal Emergency Management Agency/North Dakota State Water Commission which may have significant impacts on how the property can or should be developed, if at all.
4. The proposed master planned area includes property that is affected by a United States Army Corps of Engineering levee recertification which may have significant impacts on how the property can or should be developed, if at all.
5. The City of Mandan's construction standards that apply following removal from the floodplain based on fill (LOMR-F) do not adequately address basement construction and create the potential for increased loss of life and property and therefore more intense development is inappropriate until changes to the floodplain ordinance have been adopted.

List of Exhibits:

Exhibit 1 – Proposed Masterplanned Subdivision Plat

Exhibit 2 – Base Flood Elevations for Riverine Flood Area

Exhibit 3 – Base Flood Elevations for Ice Jam Flood Area

Exhibit 4 – Base Flood Elevations – Focus on Subject Area

Exhibit 5 – State Floodplain Coordinator Comment

Exhibit 6 – Future Land Use Map of Subject Area

Exhibit 7 – Select Pages from Mandan Land Use and Transportation Plan Pertinent to Open Space

MASTER SUBDIVISION PLAT LAKEWOOD 10TH ADDITION

VICINITY MAP



EXHIBIT 2 - Base Flood Elevations for Riverine Flood Area

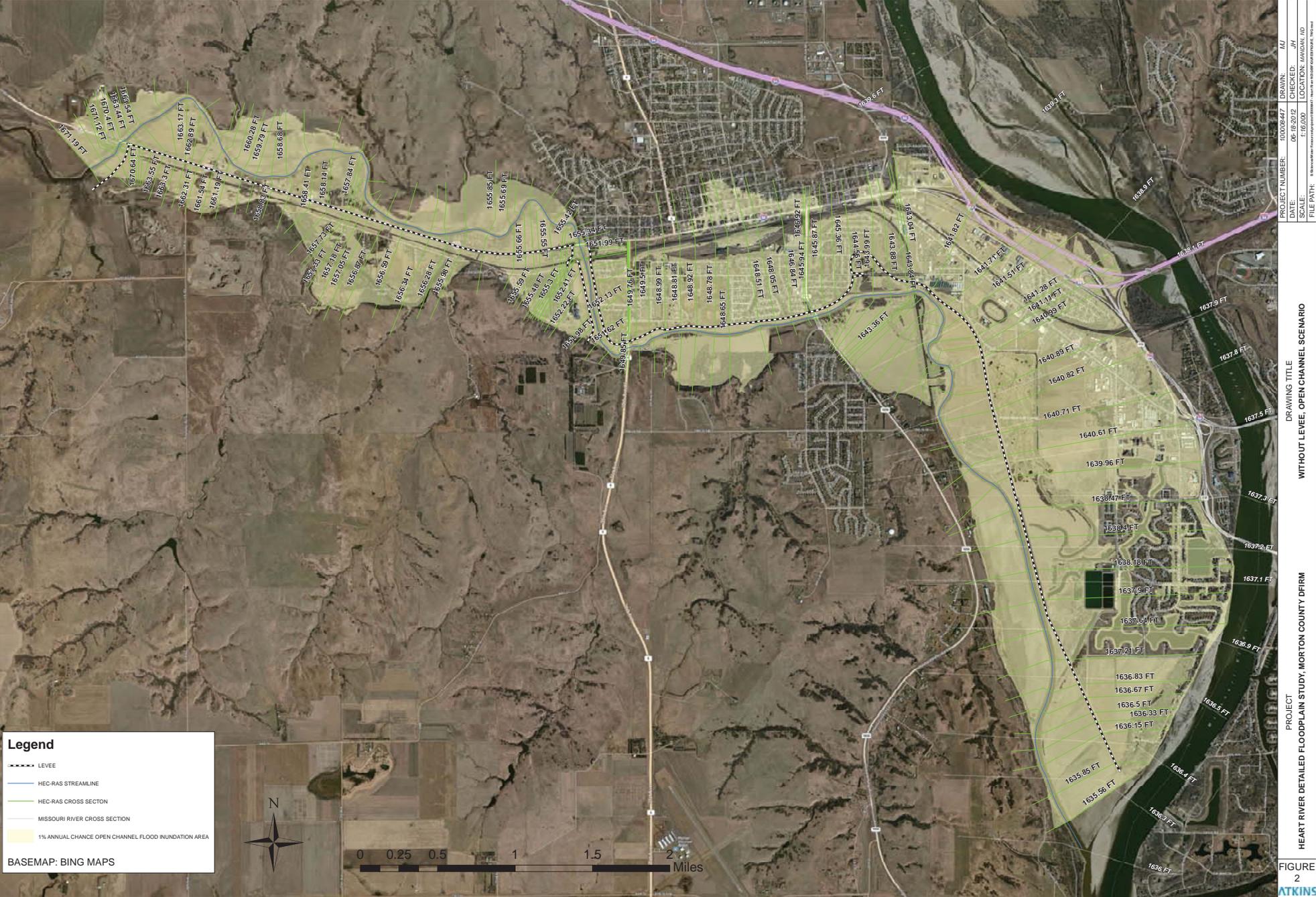


EXHIBIT 3 - Base Flood Elevations - Ice Jam Flood Area

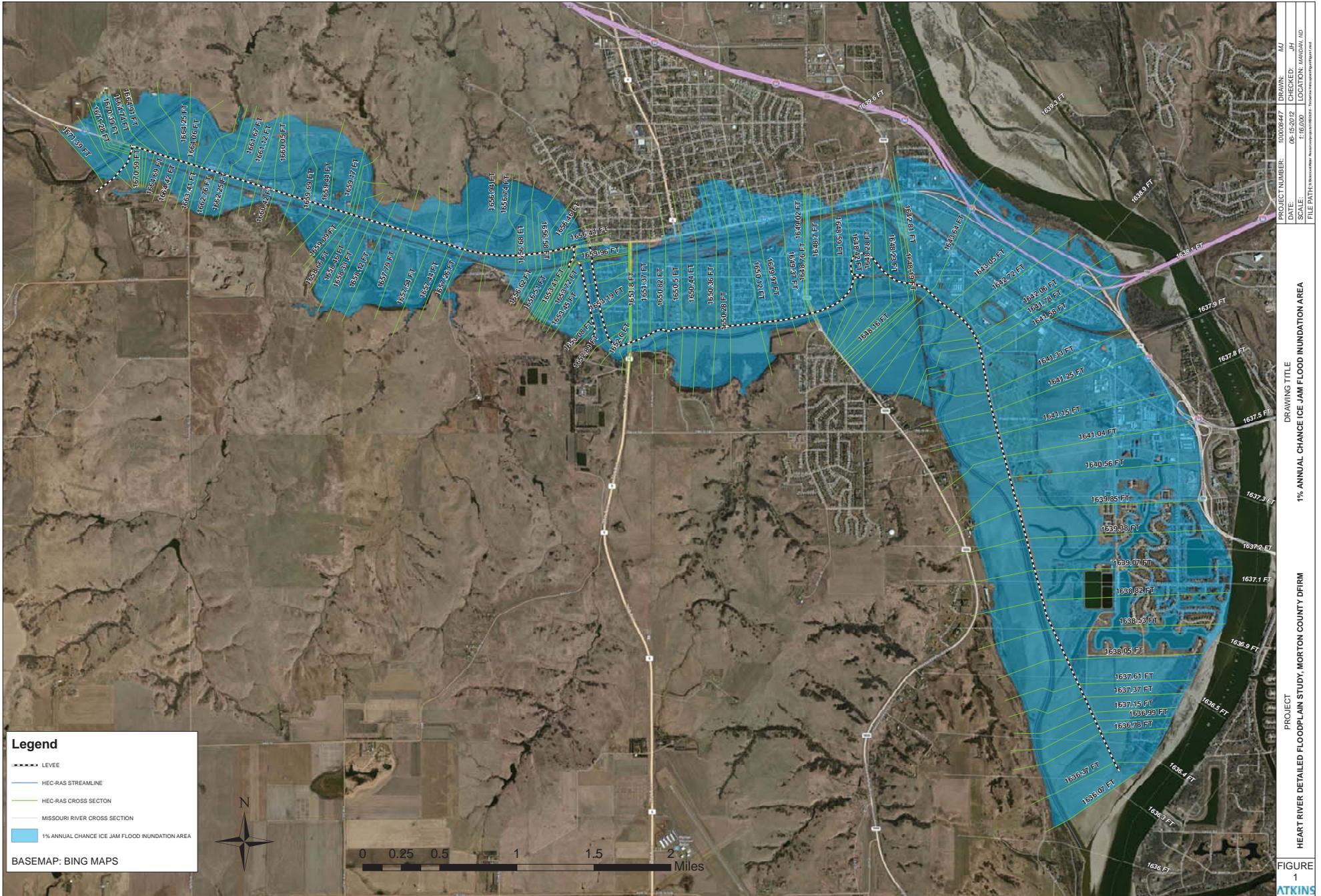
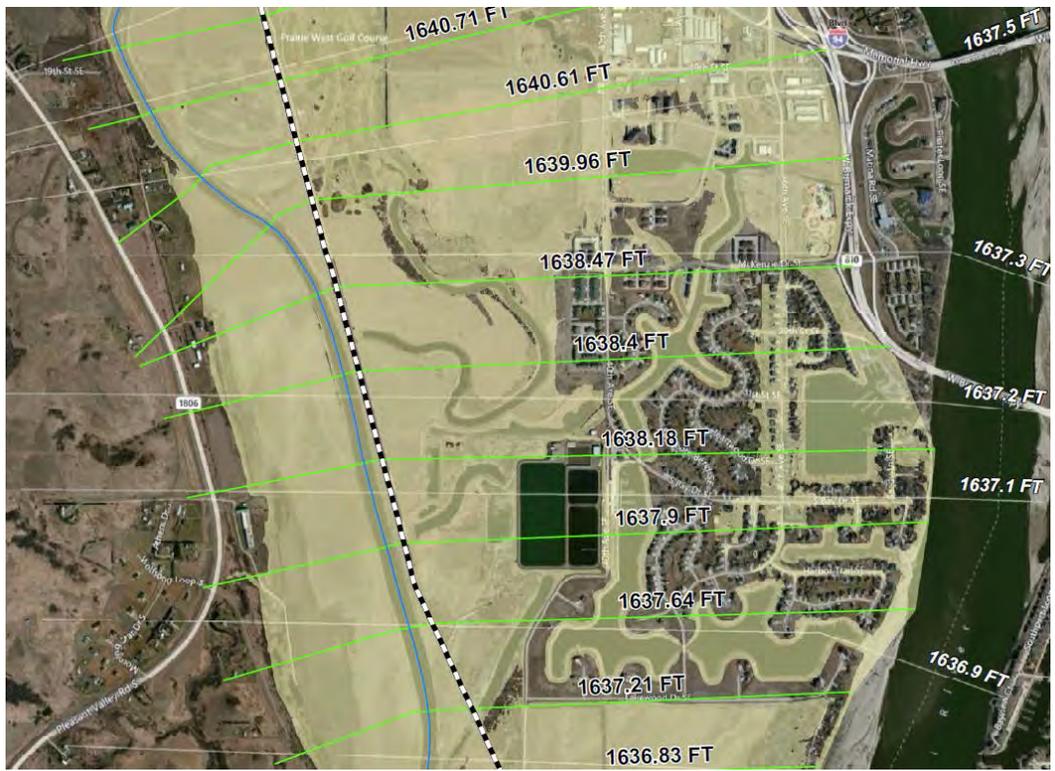
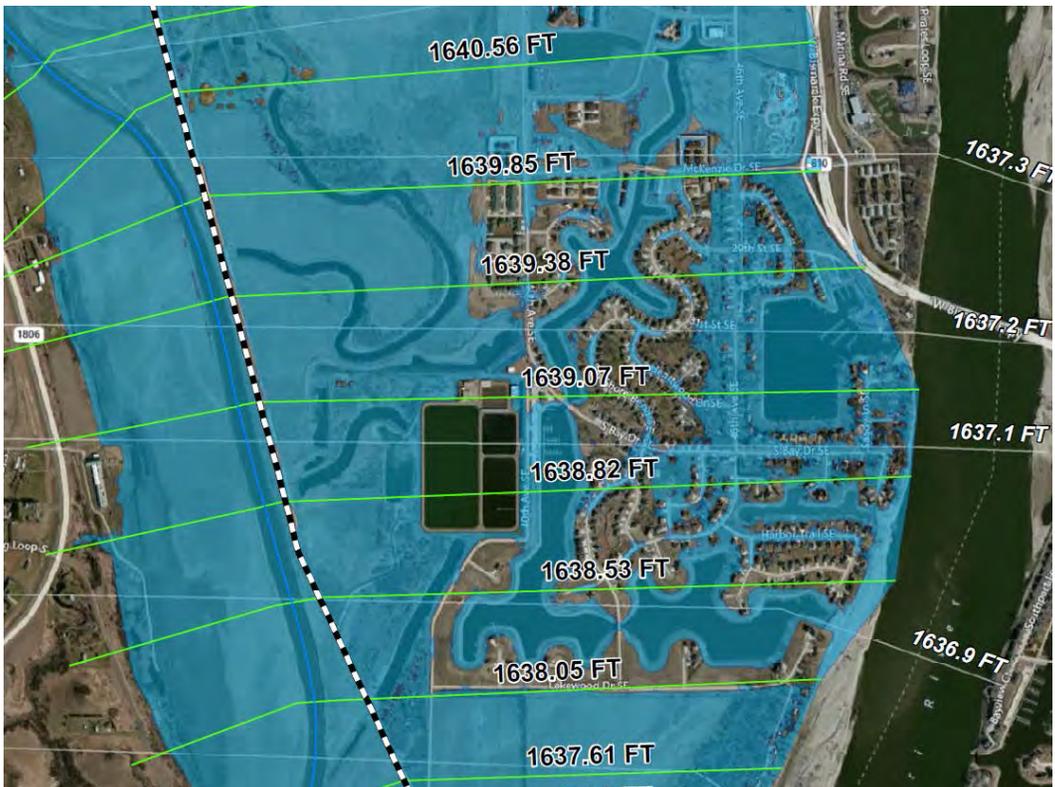


EXHIBIT 4 - Base Flood Elevations - Focus on Subject Area



Riverine Flooding



Ice Jam Flooding

EXHIBIT 5 - State Floodplain Coordinator Comment

John W. Van Dyke

From: Haynes, Dionne F. <dfhaynes@nd.gov>
Sent: Tuesday, January 08, 2019 2:20 PM
To: John W. Van Dyke
Subject: Re: Lakewood 10th
Attachments: FIGURE1.pdf; FIGURE2.pdf

Good afternoon John,

As far as minimum NFIP regulations go with the effective FIRM, development on fill in that area would be allowed. As you stated below, just because you meet the minimum requirements does not mean you are safe from flooding. If development is going to be allowed in areas removed from the SFHA by fill, I strongly encourage the City of Mandan to regulate development as if it is still in the SFHA (lowest floor 1 foot above the BFE). My predecessor always said, "once in a floodplain, always in a floodplain".

In this particular area there are additional concerns regarding flooding that I would encourage you/Mandan to consider. Attached are some images the City is aware of, but may be worth looking at again.

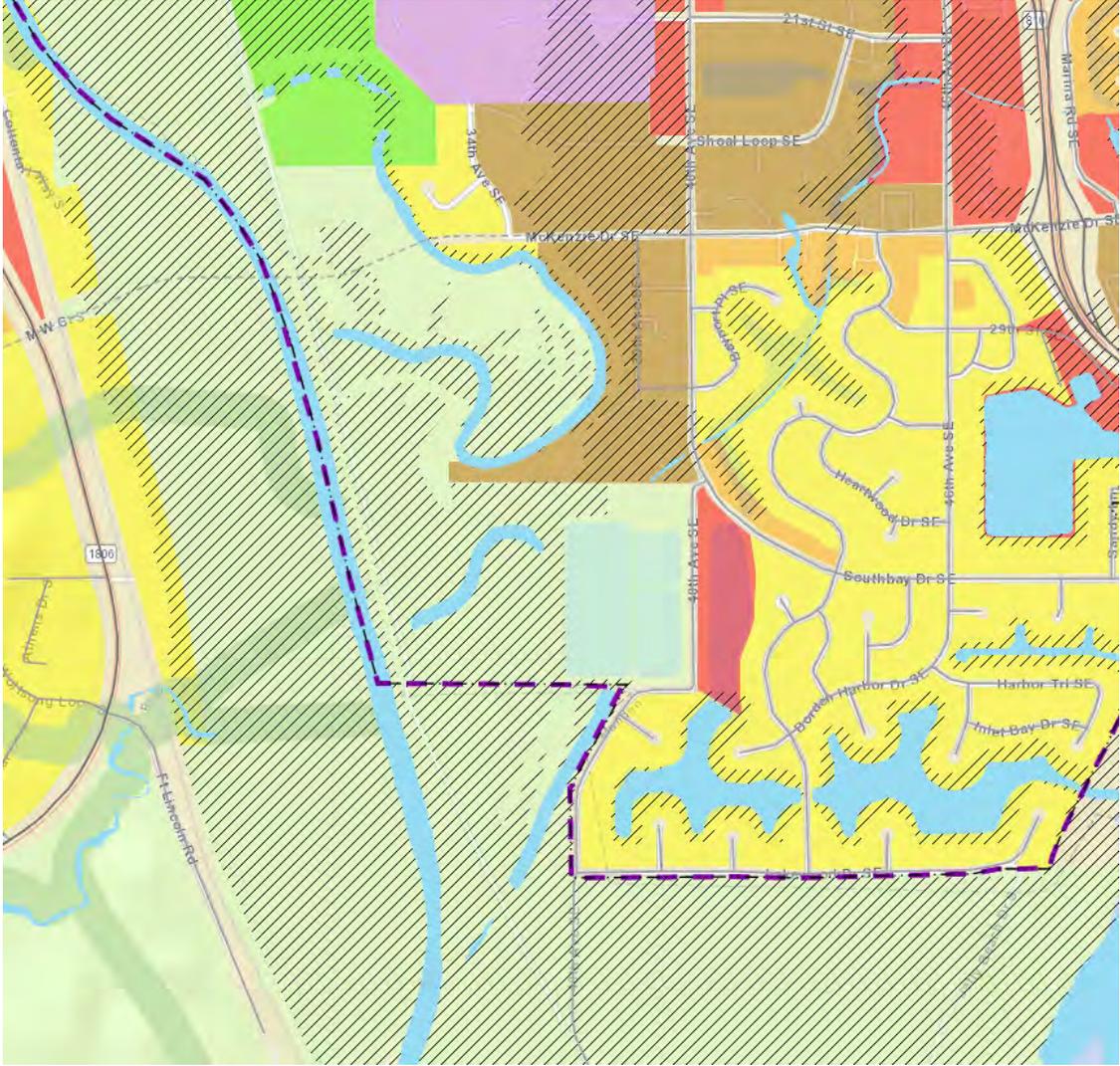
- 1) Discuss levee concerns with the Lower Heart Water Resource District and HDR regarding the study they are conducting. In the event FEMA remaps the City of Mandan are the levees going to meet their requirements or will the City be mapped with an "open valley" approach?
- 2) Consider the ice jam impacts to flood elevations. If this area experiences the 1% flood event with ice jams, flood waters are expected to be around 1939. That's 2 feet above the effective BFE!
- 3) In the event the maps are updated, it's possible the BFEs will increase. If the LOMR-Fs are not re-validated, structures will move back into the SFHA. Those who dropped in basements may have the lowest floor several feet below the BFE (4-10 feet?), which carries a much more expensive flood insurance policy.

FEMA and the State encourage communities to implement higher standards. FEMA sets the bar at the bare minimum for NFIP compliance and the State requires the 1 foot of freeboard. Beyond that, individual communities need to adopt higher standards in order to create a more flood resilient community. Some communities require additional freeboard, have setbacks from streams, or don't allow development in the 1% floodplain at all.

I hope this helps. Please let me know if you have any questions.

Dionne Haynes, CFM
State NFIP Coordinator
Office of the State Engineer
701-328-4961
dfhaynes@nd.gov

EXHIBIT 6 - Future Land Use Map of Subject Area



- Rural Residential
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Commercial
- Industrial
- Public/Semi-Public
- Public Land
- Park
- Greenways
- Open Space
- Open Water

Exhibit 7 - Select Pages from Mandan Land Use and Transportation Plan Pertinent to Open Space

Goal 1: Promote a well-planned community balancing land uses and expansion of services.

Key planning themes:

Managing growth and development, community character and identity, maintaining infrastructure

Rationale: A carefully created comprehensive plan will ensure the community's ability to grow in a rational and responsible manner that promotes efficient investment in present and future infrastructure.

Policies:

1. Create a land use plan that defines the types and locations of residential, commercial, industrial and public uses required to meet the community's projected needs, and zone property consistent with the land use plan.
2. Identify growth areas and maintain a development staging plan, within the city limits and in the two-mile extraterritorial jurisdiction, to manage growth and guide the orderly and cost effective provision of infrastructure at a rate consistent with anticipated growth.
3. Require efficient use of the land with compact urban development standards in both new development and redevelopment.
4. Identify, prioritize and protect sensitive natural features, such as the rivers, streams, wetlands, natural open space and local parks, as development proceeds.
5. Provide for commercial and industrial land uses at locations where adequate municipal services are available with access to major roadways.
6. Create neighborhood commercial areas which provide goods and services for the neighborhood.
7. Create and enforce building, site design and signage standards to insure high quality development that enhances Mandan's identity and character.
8. Create landscaping and buffering standards between higher and lower intensity users.
9. Utilize the City's Capital Improvement program and explore funding mechanisms and options to maintain current municipal infrastructure and support extension of municipal infrastructure.
10. Identify areas for expanded commercial and industrial growth along the I-94 corridor with good access that serve market demand and respect neighboring land uses.

TABLE P.1: Park Classifications

Park Classification	Data		Characterisitcls	Advantages	Disadvantages
Mini-Park	Size	less than 1 acre	1. Located within residential settings	1. Accessible	1. Adds maintenance costs
	Service Area	1/4 mile max			
Examples include W.M. Bauknecht Park, Little Haven Park	Common Amenities	Playgrounds, Passive adult amenities Seating Picnic area Multi-purpose green space	2. Accessible for pedestrians, bicycles and children w/out accompaniment	2. Available	2. More difficult to monitor
Neighborhood Park	Size	1 - 5 acres	1. Located within residential settings	1. Accessible	1. Adds maintenance costs
	Service Area	1/4- 1 mile			
Examples include Borden Park, KC Park	Common Amenities	Playgrounds Seating and picnicking Horseshoes/bocce Ball fields/Tennis/BB courts Park building Wading pool	2. Accessible for pedestrians, bicycles and children w/out accompaniment	2. Available	2. More difficult to monitor
Hybrid Park	Size	6 - 15 acres	1. Typical near residential areas, but with arterial or collector road access	1. Specialized facilities	1. More difficult to find space
	Service Area	1/2- 1 mile			
No current examples	Common Amenities	Playgrounds Shelters, seating and picnicking Horseshoes/bocce Ball fields/Tennis/BB courts Ice rink Park building Indoor sports Off-street parking Wading pool	2. Accessible for pedestrians and bicycles	2. Consolidates maintenance	2. May bring in unwanted traffic
City School Parks	Size	6 - 15 acres	1. Adjacent to a school	1. Specialized facilities	1. May cause conflicts between neighborhood users and school users
	Service Area	varies			
No current examples	Common Amenities	Playgrounds Shelters, seating and picnicking Horseshoes/bocce Ball fields/Tennis/BB courts Ice rink Park building Indoor sports Off-street parking	2. Supports recess, sports, and afterschool activities	2. Consolidates maintenance	2. May bring in unwanted traffic
Community Park	Size	over 15 acres	1. Adjacent to a school	1. Specialized facilities	1. May bring in unwanted traffic
	Service Area	1 - 3 mile radius			
Examples include Dakota Centennial Park, Legion Memorial Softball Fields	Common Amenities	Playgrounds Rental shelters Trails/nature areas Ice arena/Outdoor rink Park building Indoor sports Off-street parking Tournament ballfields/Sport courts Splash pad/Pool Specialized facilities	2. Supports recess, sports, and afterschool activities	2. Consolidates maintenance	2. Requires large tracts of land
Open Space	Size	varies	1. Often land that is unsuitable for development or typical sports, such as steep slopes, environmentally sensitive areas, or shoreland	1. Allows access to nature and passive activities	1. May be difficult to integrate into urban fabric and developed areas
	Service Area	varies			
Examples include the Missouri River Nature Trail	Common Amenities	Trails Seating and picnicking Fishing Swimming Wayfinding and signage Naturalized or restored landscape Boardwalks or overlooks Small shelters Nature study or educational areas	2. May be linear and mainly along trails or waterways	2. Offers access to public waterways	

TABLE P.7: Projected Park Land Needs

Park Type	Existing Acres	2012 Existing Level of Service (acres per 1,000 pop.) ¹	NRPA standards [†]	2030 Planned Level of Service (acres per 1,000 pop.) ²	Total acres needed by 2030	Additional acres needed by 2030 ³
Mini-Park	1.8	0.09	.25-.50	0.10	3	1
Neighborhood Parks	43.8	2.3	2.5-3.5	3.0	86	42
Community Parks	210.5	11.1	5.0-8.0	14.0	400	143
Special Facilities (i.e. golf course)	197.8	10.4	N/A	6.9	198	0
Total Parks/Open Space	453.9	23.9	N/A	24.0	687	186

¹ Based on 2012 estimated population of 18,978.

² Based on 2030 projected population of 28,600

³ Reduced to account for 47 acres already acquired.

[†] The National Recreation and Parks Association (NRPA) has defined a best practices standard of park acreage needed based on community

Source: Stantec

While this table does indicate that additional Mini-Park facilities should be constructed, many cities and park districts are moving away from providing additional Mini-Parks due to their high maintenance costs relative to the number of people served by them.

Trails

As shown in Table P.5 previously, Mandan is projected to need an additional 29 miles of trails within the planning horizon projected out to 2030. These trail miles will be most valuable when used to eliminate gaps in the existing bicycle and pedestrian network and to provide connections between population centers and recreational and natural resource areas. In addition to these trails, it is anticipated that new residential development would provide sidewalks within neighborhoods and linkages to the City-wide trail system. Some of the proposed trail alignments are diagrammatic, and are meant to convey the idea that connecting between certain locations would be beneficial, rather than to identify a particular alignment. The Planned Parks and Trails drawing shows approximately 21.5 miles of the total projected 29 miles of future trails needed. Additional trail locations would be identified as development occurs. The community also expressed a desire for a trail connection across the Missouri River from northern Mandan to northern Bismarck. Construction of this trail connection will require coordination among a number of local, regional, state, and federal entities.

Open Spaces

Given its topography and relationship to the Missouri River, Mandan has a number of ravines, waterways, and floodplain areas that lend themselves to dedication as preserved open spaces or greenway corridors. These open spaces provide water quality buffers, habitat corridors, trail routing opportunities, as well as separation between development areas to enhance views.

Special Facilities

Mandan has a number of existing special facilities, including high-quality golf courses, Raging Rivers Water Park, and the Dacotah Speedway. Given the level of activity, traffic, and noise that can be generated by special facilities, they typically need to be carefully sited relative to surrounding land uses. Likewise, as communities grow and develop, it may be desirable to relocate special facilities to accommodate that growth and encourage more density of development closer to the city center area or along major transportation routes.