

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at www.FargoND.gov/streaming. They are rebroadcast Mondays at 5:00 p.m., Thursdays at 7:00 p.m. and Saturdays at 8:00 a.m. They are also included in the video archive at www.FargoND.gov/citycommission.

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, November 1, 2021).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. 2nd reading and final adoption of the following Ordinances; 1st reading, 11/1/21:
 - a. Rezoning a Certain Parcel of Land Lying in Oak Manor Second Addition.
 - b. Relating to Franchises and Contracts.
 - c. Electric Franchise Ordinance.
 - d. Rezoning Certain Parcels of Land Lying in Reeves Addition.
- 2. Applications for Games of Chance:
 - a. Friends of the Children Fargo-Moorhead for a raffle on 12/2/21; Public Spirited Resolution.
 - b. NDSU Judging Club for a raffle on 3/2/22.
 - c. El Zagal Shrine Arab Patrol for a raffle on 3/11/22.
 - d. Eagles Elementary PTA for bingo on 11/19/21 and 2/11/22.
- 3. 2022 City Commission meeting schedule.
- 4. Memorandum of Understanding Regarding Construction, Maintenance and Purchase Option with Park District of the City of Fargo.
- 5. Property Damage Release Agreement and allocation of \$93,860.00 from Acuity Insurance for damages at 2451 43rd Street North with Northern Improvement completing the repairs.
- 6. 2021 CIP revisions.
- 7. Resolution Authorizing Storm Water Service Charge.
- 8. Change Order No. 8 for an increase of \$47,668.50 for Project No. FM-16-A1.
- 9. Bid award for Project No. MP-20-A2 (Roberts Alley).
- 10. 74-day extension of FMLA for Sarah Dykema.
- 11. Revised Resolutions Authorizing the Issuance and Sale of City of Fargo Solid Waste Revenue Bonds, Series 2021B and 2021C.

12. Receive and file Financial Status Report Year to Date ending through 10/31/21 for major operating funds (unaudited).
13. Agreement for Services with Akumbom Neba.
14. Notice of Grant Award with the ND Department of Health for Community Grant Program to address Public Health gaps in the community (CFDA #93.991).
15. Addendum to Provision of Nursing Services for the Central Cass Public School District.
16. Purchase of Service Agreement with the ND Department of Human Services for implementing strategies addressing opioid or stimulant misuse.
17. Change Orders for the Mid America Steel Demolition:
a. No. 4 in the amount of \$4,065.00.
b. No. 5 in the amount of \$8,484.62
18. Purchase of one Fire Rescue Truck (PBCFS12-19).
19. Change Orders for Project No. SW20-01:
a. No. 2 for an increase in the amount of \$21,548.60 (civil contract).
b. No. G-001 for an increase in the amount of \$235.62 (general contract).
c. No. G-002 for an extension to the substantial completion date to 12/15/21 (general contract).
d. No. M-002 for an extension to the substantial completion date to 12/15/21 (mechanical contract).
e. No. M-003 for an increase in the amount of \$1,555.00 (mechanical contract).
f. No. E-001 for an extension to the substantial completion date to 12/15/21 (electrical contract).
20. Amendment to the Task Order with Stantec Consulting Services, Inc. in the amount of \$14,852.00 for Project No. SW20-01.
21. Amendments to Contract Nos. 38190961B, 38190973A and 38201125A with the ND Department of Transportation.
22. Submittal of a grant application to the State of ND for grant funding for public transportation and upon successful receipt of funds to execute the Grant Agreement (CFDA #s 20.526 and 20.513).
23. Bid award for Metro Transit Garage Hoist Replacement (RFQ21072).
24. Change Order No. 3 in the amount of -\$2,111.78 for Project No. WA2004.
25. Task Order No. 12 with AE2S in the amount of \$448,720.00 for Project No. WA1852.
26. Change Order No. 2 for an increase in the amount of \$19,849.90 for Project No. WA1863.
27. Chemical bid awards for the Water Treatment Plant for 2022, as presented (AFB21182).
28. Chemical bid awards for the Water Reclamation Utility for 2022, as presented (AFB21183).
29. Bills.

Page 3 30. Incentive of \$4,000.00/day for a maximum of 15 days for a total incentive of \$60,000.00 for Improvement District No. BN-22-A1.

31. Change Order No. 2 for a 4-day Phase 4 interim time extension to 10/30/21 for Improvement District No. BR-21-C1.

32. Negative Final Balancing Change Order No. 1 in the amount of -\$7,565.00 for Improvement District No. AN-20-C1.

33. Easement (Temporary Construction Easement) with Gate City Federal Savings Bank in association with Improvement District No. BR-22-A0.

34. Memorandum of Offer to Landowner and Easement (Temporary Construction Easement) with 32nd Center, LLLP in association with Improvement District No. BR-22-A0.

REGULAR AGENDA:

35. **RESIDENT COMMENTS (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at FargoND.gov/VirtualCommission).**

36. ***Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:**

a. Meadow View Addition (1402-1493 66th Avenue South; 1406-1494 67th Avenue South; 1450-1497 68th Avenue South; 1402-1498 69th Avenue South; 6600-6985 14th Street South); approval recommended by the Planning Commission on 6/3/21; continued from the 11/1/21 Regular Meeting:

1. Zoning Change from SR-4, Single Dwelling Residential and P/I, Public Institutional to SR-4, Single Dwelling Residential and P/I, Public Institutional.
2. 1st reading of rezoning Ordinance.
3. Plat of Meadow View Addition.

37. COVID-19 Update.

38. Introduction of the new Emergency Manager.

39. Recommendation to receive and file the Order on Request for Declaratory Judgment issued by Cass County District Court in the case entitled "In re Fargo Municipal Code Section 2-0106."

40. Recommendation to approve the Agreement with Walker Consultants for the Civic Center Parking Ramp Expansion.

41. Recommendations for Federal Aid Transportation Project applications.

42. 1st reading of an Ordinance Relating to the City of Fargo Police Advisory and Oversight Board.

43. Recommendation to eliminate the Wildlife Management Program at the conclusion of the 2021-2022 hunting season.

44. Recommendation for a Massage Therapy Establishment Program.

- a. 1st reading of an Ordinance Relating to Massage Therapy Establishments.

46. Applications for Property Tax Exemptions for Improvements Made to Buildings:
- a. Shauna Erickson-Abou Zahr and Abdallah Abou Zahr, 3115 Peterson Parkway North (3 year).
 - b. Lee and Ashley Pratschner, 3120 Hickory Street North (3 year).
 - c. Scott and Dolores Wood, 1922 East Rose Creek Parkway (3 year).
 - d. Charles and Christen Mathson, 5315 18th Street South (3 year).
 - e. Darrell and Cheryl Troftgruben, 3030 20th Street South (3 year).
 - f. Sigurd and Anita J. Folden, 1518 3rd Street North (5 year).
 - g. John E. and Karen K. Ringsrud, 2319 26 1/2 Court South (5 year).
 - h. Susan Heidenreich, 1637 5th Avenue South (5 year).
 - i. Jeffrey and Catherine Huseby, 29 South Woodcrest Drive North (5 year).
 - j. Aaron and Holly Nissen, 513 24th Avenue South (5 year).
 - k. James K. and Alison B. Leiman, 1449 10th Street South (5 year).
 - l. John H. and Kristin E. Osborne, 1103 8th Avenue South (5 year).
 - m. John and Kristin Osborne, 1353 9th Street North (5 year).
 - n. Cody J. Hellquist, 1213 1st Street North (5 year).
 - o. Robert and Rebecca Dura, 3308 Longfellow Road North (5 year).
 - p. Gregory and Margaret Wheelden, 328 28th Avenue North (5 year).
 - q. Robert Hearne, 3225 Elm Street North (5 year).
 - r. Larry and Robin Olson, 3531 Longfellow Road North (5 year).
 - s. Larry and Robin Olson, 3531 Longfellow Road North (5 year).

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 701.241.1310 at least 48 hours before the meeting to give our staff adequate time to make arrangements.

Minutes are available on the City of Fargo website at www.FargoND.gov/citycommission.

3602

| City of Fargo Staff Report | | | |
|---------------------------------------|--|-----------------------|--|
| Title: | Meadow View Addition | Date: | 5/27/2021 |
| | | Update: | 10/28/2021 11/10/2021 |
| Location: | 1402-1493 66th Avenue South; 1406-1494 67th Avenue South; 1450-1497 68th Avenue South; 1402-1498 69th Avenue South; 6600-6985 14th Street South | Staff Contact: | Donald Kress, current planning coordinator |
| Legal Description: | Lots 1-44, Block 2; Lots 1-45, Block 4; Lots 1-21, Block 5; Lots 1-22, Block 8; Lots 1-32, Block 9 of Bison Meadows Second Addition to the City of Fargo, Cass County, North Dakota | | |
| Owner(s)/Applicant: | Thompsons Homes / Jon Youness—Eagle Ridge Development | Engineer: | Mead and Hunt |
| Entitlements Requested: | Major Subdivision (Replat of Lots 1-44, Block 2; Lots 1-45, Block 4; Lots 1-21, Block 5; Lots 1-22, Block 8; Lots 1-32, Block 9 of Bison Meadows Second Addition to the City of Fargo, Cass County, North Dakota, and a Vacation and re-dedication of a portions of 14th Street South, and 66th, 67th, 68th, and 69th Avenues South; and a name change for a portion of 67th Avenue South and Zone Change (from SR-4, Single-Dwelling Residential and P/I, Public and Institutional to SR-4, Single-Dwelling Residential and P/I, Public and Institutional zones within the boundaries of this plat) | | |
| Status: | City Commission Public Hearing: November 15th, 2021 | | |

| Existing | Proposed |
|--|--|
| Land Use: Platted but not developed | Land Use: Residential and Park |
| Zoning: SR-4, Single-Dwelling Residential and P/I, Public and Institutional | Zoning: SR-4, Single-Dwelling Residential and P/I, Public and Institutional |
| Uses Allowed: SR-4 allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities P/I – Public and Institutional allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events. | Uses Allowed: SR-4 allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities P/I – Public and Institutional allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events. |
| Maximum Density Allowed (Residential): SR-4, Maximum 12.1 units per acre | Maximum Density Allowed (Residential): SR-4, Maximum 12.1 units per acre |

Maximum Lot Coverage Allowed: P/I has no maximum

Maximum Lot Coverage Allowed: P/I has no maximum

Proposal:

PROJECT HISTORY NOTE: This project was continued from the November 1, 2021 City Commission agenda.

The applicant requests two entitlements:

1. A major subdivision, entitled **Meadow View Addition**, which is a replat of Lots 1-44, Block 2; Lots 1-45, Block 4; Lots 1-21, Block 5; Lots 1-22, Block 8; Lots 1-32, Block 9 of Bison Meadows Second Addition to the City of Fargo, Cass County, North Dakota and a Vacation and re-dedication of a portions of 14th Street South, and 66th, 67th, 68th, and 69th Avenues South; and a name change for a portion of 67th Avenue South.
2. A zoning change from SR-4, Single-Dwelling Residential and P/I, Public and Institutional to SR-4, Single-Dwelling Residential and P/I, Public and Institutional zones to revise the boundaries of the existing SR-4, Single-Dwelling Residential and P/I, Public and Institutional zones

This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: AG, Agricultural; former city of Fargo borrow pit
- East: Cass County; agricultural land use and City of Briarwood; residential development
- South: SR-2 Single-Dwelling Residential with single family residences
- West: SR-4, Single-Dwelling Residential with single-dwelling residences and P/I Public and Institutional with parks and public open space.

Area Plans:

The subject property is located within the 2007 Southeast Growth Plan. This plan designates the subject property as Proposed Residential Area—Lower to Medium Density and Proposed Park land. The SR-4 and P/I zoning districts are consistent with this land use designation.



| | |
|--|--|
| ■ | Commercial Area |
| ■ | Future School |
| ■ | Proposed Park |
| ■ | Residential Area - lower to medium density |
| ■ | Residential Area - medium to high density |
| ■ | Residential Area - rural |

Context:

Schools: The subject property is located within the Fargo School District and is served by Bennett Elementary, Discovery Middle and Davies High schools.

Parks: Davies Athletic Complex (1880 70th Avenue S) is located approximately 0.3 miles southwest of the subject property and offers baseball/softball amenities. Davies Recreational Pool (7150 25th Street S) is located approximately 0.41 southwest of the subject property and offers concessions, restrooms, and swimming pool amenities. A Fargo Park District property, which includes a bike/pedestrian trail, is included in the project site.

Pedestrian / Bicycle: Pedestrian sidewalks run along 67th and 70th Avenue South, and there is a trail through the park on the east side of the subject property.

Staff Analysis:

The proposed plat is a replat of the portion of Bison Meadows Second Addition east of 15th Street South. There has been no development or installation of infrastructure on the project site. There has been no sale of lots to individual owners. The residential lots are owned by Thompsen Homes and the park lot by the Fargo Park District. The plat will create 144 lots, with 143 residential lots and one park lot, zoned as shown in the chart below. The proposed subdivision results in overall 20 fewer lots than the existing subdivision.

| BLOCK | LOTS | ZONING |
|-------|---------------|--------|
| 1 | 1-13 | SR-4 |
| 2 | 1-26 | SR-4 |
| 3 | 1-24 | SR-4 |
| 4 | 1-34 | SR-4 |
| 5 | 1-18 | SR-4 |
| 6 | 1-8 and 10-29 | SR-4 |
| 6 | 9 | P/I |

The SR-4 zoned lots range in size from approximately 4,400 square feet to over 11,500 square feet, with most lots in the 4,500 to 7,500 square foot range. All lots exceed the minimum required lot area of 3,600 feet for SR-4 zoned lots.

LOT WIDTHS: The changes in lot widths are noted in the chart below; lot widths in the chart are measured at the street frontage. The minimum required lot width in the SR-4 zone is 34 feet.

| CURRENT BLOCK NUMBER | NUMBER OF LOTS | LOT WIDTH RANGE | PROPOSED BLOCK NUMBER | NUMBER OF LOTS | LOT WIDTH RANGE |
|----------------------|----------------|-----------------|-----------------------|----------------|--|
| 2 | 44 | 36 to 60 feet | 6 | 29 | Most lots are 60 to 70 feet (see Note 1 below) |
| 4 | 45 | 36 to 60 feet | 4 | 34 | Most lots are 40 to 66 feet (see Note 2 below) |
| 5 | 21 | 36 to 53 feet | 3 | 24 | 35 to 42 feet; one oversized lot on curve |
| 8 | 22 | 36 to 60 feet | 2 | 26 | 34 to 42 feet. |
| 9 | 32 | 36 to 60 feet | 1 and 5 | 31 | Block 1--36 to 42 feet; Block 5--46 to 60 feet |
| TOTAL | 164 | ---- | ---- | 144 | ---- |

NOTE 1: Lots 12 and 18, along the inside curve of Block 6 fronting 14th Street South, are 56 and 52 feet wide at the street but widen to between 76 and 93 feet.

NOTE 2: Lots 20 through 28, along the inside curve of Block 4 fronting Meadow View Drive South, have a narrower width at the street because of the curve creating wedge-shaped lots, but these lots widen out to between 52 to over 70 feet.

ACCESS: The Meadow View Addition will take access from 70th Avenue South as well as the existing streets in Bison Meadows Second Addition west of 15th Street South. All internal streets are dedicated public streets with a 70-foot wide right of way.

STREET RENAMING: As 67th Avenue South is being reconfigured to intersect with 70th Avenue South, instead of curving around into 69th Avenue South as it currently does, this street is being renamed "Meadow View Drive South," as depicted on the plat. The portions of 67th and 69th Avenues South on the west side of 15th Street South are not included in this change.

PUBLIC WATER AND SEWER: Public water and sewer will be provided in the dedicated public streets.

PARKS: The park on the east side of the project site (proposed Lot 9, Block 6) will be owned by the Fargo Park District. The park itself retains the same configuration it currently has though the access to 66th Avenue South and 14th Street South will be slightly relocated.

PUBLIC MEETING: Though a public meeting is not required for this major subdivision and zone change, the applicant requested one be arranged, and notice of the meeting was included in the property owner letters. A virtual meeting was held on the afternoon of Wednesday, May 26th. Other than Planning Department staff and the applicant, there were no participants in this meeting.

VACATION OF RIGHT OF WAY: This plat proposes to vacate and rededicate the rights of way for the portions of 14th Street South and 66th, 67th, 68th, and 69th Avenue South within the plat in order to account for any minor changes in right of way configuration resulting from the changing lot lines. As noted above, the portion of 67th Avenue South within the plat boundary will be renamed Meadow View Drive South.

Zoning

Section 20-0906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:

1. Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?

Staff is unaware of any error in the zoning map as it relates to this property. The current Bison Meadows Second Addition is zoned SR-4 for the residential lots and P/I for the park lot. The Meadow View Addition relocates the property lines of all the lots within the project boundary. The zone change accounts for the fact that the boundary between the SR-4 and P/I zoned lots will change. This zoning is consistent with the 2007 Growth Plan. **(Criteria Satisfied)**

2. Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on existing, developed public rights-of-way which provide access and public utilities to serve the development. **(Criteria satisfied)**

3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received and responded to three inquiries. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria satisfied)**

4. Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The Growth Plan that applies to this property is the 2007 Growth Plan; this plan designates this property as appropriate for "lower to medium density residential development," which would include the SR-4 zone. This zone allows a density of 12.1 dwelling units per acre. The project will have a density of 4.2 dwelling units per acre. The P/I zone is allowed within this land use designation. Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. **(Criteria satisfied)**

Subdivision

The LDC stipulates that the following criteria is met before a major plat can be approved

1. Section 20-0907(C)(1)(Development Review Procedures—Subdivisions—Major Subdivisions) of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.

The zoning for the residential development on this property is SR-4: Single-Dwelling Residential. The SR-4 zoning will accommodate the proposed single-family development. The SR-4 zoning designation is consistent with the "lower to medium density" designation for this property in the 2007 Growth Plan. The park lot is zoned P/I, Public and Institutional, which is appropriate for a government-owned park. Parks are allowed within the "lower to medium density" land use designation. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received and responded to three inquiries. **(Criteria Satisfied)**

2. Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.

The residential lots are zoned SR-4, Single-Dwelling Residential. This zoning is consistent with the 2007 Growth Plan which designates this property for "lower to medium density residential" development. The park lot is zoned P/I, Public and Institutional, which is appropriate for a government-owned park. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code. **(Criteria Satisfied)**

3. Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.

The applicant has provided a draft amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan has been reviewed by the Public Works Project Evaluation Committee (PWPEC). Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

ROW Vacation Approval Criteria: The City of Fargo does not currently have any adopted regulation dealing with the vacation of rights-of-way. However, city policy requires that any applicant wishing to vacate right-of-way must submit a Vacate Application—a one-page form wherein the petitioner provides: a description of the area to be vacated and signatures of all property owners adjoining the area to be vacated. In addition, the applicant must submit a vacation plat (a major subdivision). In this case, the petition for vacation and the plat are included in the applicant's overall subdivision application and plat. Notwithstanding the Land Development Code's (LDC) silence on the matter, the North Dakota Century Code (N.D.C.C) does address the opening and vacating of roadways in Chapter 24-07 (outside of municipal limits) and Chapter

40-39 (inside municipal limits). To that end, the balance of this report will focus on the specific approval criteria outlined within Chapter 40-39 of the N.D.C.C. The final decision on vacation of right of way is made by the City Commission.

N.D.C.C. 40-39-04. Vacation of streets and alleys where sewers, water mains, pipes, and lines located – Conditions. No public grounds, streets, alleys, or parts thereof over, under, or through which have been constructed, lengthwise, any sewers, water mains, gas, or other pipes or telephone, electric, or cable television lines, of the municipality or the municipality's grantees of the right of way thereof, may be vacated unless the sewers, mains, pipes, or lines have been abandoned and are not in use, or unless the grantee consents, thereto, or unless perpetual easements for the maintenance of sewers, water mains, gas, or other pipes, or telephone, electric facilities, whether underground or aboveground, is subject to the continued right of location of such electric facilities in the vacated streets.

No utilities are installed in the rights-of-way to be vacated, nor is any of these right-of-way paved. No easements are required. (Criteria Satisfied)

N.D.C.C. 40-39-05. Petition for vacation of streets, alleys, or public grounds – Contents – Verification. No public grounds, streets, alleys, or parts thereof within a municipality shall be vacated or discontinued by the governing body except on a petition signed by all of the owners of the property adjoining the plat to be vacated. Such petition shall set forth the facts and reasons for such vacation, shall be accompanied by a plat of such public grounds, streets, or alleys proposed to be vacated, and shall be verified by the oath of at least one petitioner.

In accordance with the requirement of this section, this information is included on the plat and its application. (Criteria Satisfied)

N.D.C.C. 40-39-06. Petition filed with city auditor – Notice published – Contents of notice. If the governing body finds that the petition for vacation is in proper form and contains the requisite signatures, and if it deems it expedient to consider such petition, it shall order the petition to be filed with the city auditor who shall give notice by publication in the official newspaper of the municipality at least once each week for four weeks. The notice shall state that a petition has been filed and the object thereof, and that it will be heard and considered by the governing body or a committee thereof on a certain specified day which shall not be less than thirty days after the first publication of the notice.

Documentation of said action is located within both the Planning project file and Auditor's file. (Criteria Satisfied)

N.D.C.C. 40-39-07. Hearing on petition – Passage of resolution declaring vacation by governing body. The governing body, or such committee as may be appointed by it, shall investigate and consider the matter set forth in the petition specified in section 40-39-05 and, at the time and place specified in the notice, shall hear the testimony and evidence of persons interested. After hearing the testimony and evidence or upon the report of the committee favoring the granting of the petition, the governing body, by a resolution passed by a two-thirds vote of all its members, may declare the public grounds, streets, alleys, or highway described in the petition vacated upon such terms and conditions as it shall deem just and reasonable.

This procedure---hearing by the City Commission following the appropriate notice period---is scheduled for the November 15th, 2021 City Commission agenda. (Criteria Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading, and approve the proposed: 1) zone change from SR-4, Single-Dwelling Residential and P/I, Public and Institutional to SR-4, Single-Dwelling Residential and P/I,

Public and Institutional and 2) **Meadow View Addition** subdivision plat, including vacation of right of way, as presented; as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC, and of North Dakota Century Code Chapter 40-39.”

Planning Commission Recommendation June 3rd, 2021

At the June 3, 2021 Planning Commission hearing, by a vote of 8-0 with three Commission seats vacant, the Planning Commission moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed: 1) zone change from SR-4, Single-Dwelling Residential and P/I, Public and Institutional to SR-4, Single-Dwelling Residential and P/I, Public and Institutional and 2) **Meadow View Addition** subdivision plat as presented; as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC.

Attachments:

1. Location Map
2. Zoning Map
3. Preliminary Plat

Page 12 Zone Change (SR-4 & P/I to SR-4 & P/I) & Plat (Major)

6600-6985 14 St S;

1402-1493 66th Ave S; 1406-1494 67th Ave S

1450-1497 68th Ave S; 1402-1498 69th Ave S

Meadow View Addition



Zone Change (SR-4 & P/I to SR-4 & P/I) & Plat (Major)

6600-6985 14 St S

1402-1493 66th Ave S; 1406-1494 67th Ave S

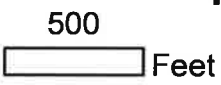
1450-1497 68th Ave S; 1402-1498 69th Ave S

Meadow View Addition



Legend

| | | | | | | | | | | | |
|----|----|----|----|------|------|------|-----|----|-----|-----|-------------|
| AG | DM | GO | LC | MR-1 | MR-2 | MR-3 | MHP | NC | P/I | UMI | City Limits |
|----|----|----|----|------|------|------|-----|----|-----|-----|-------------|



Fargo Planning Commission

June 3, 2021

MEADOW VIEW ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
A REPLAT OF LOTS 1 THROUGH 44, BLOCK 2, LOTS 1 THROUGH 45, BLOCK 4, LOTS 1 THROUGH 21, BLOCK 5, LOTS 1
THROUGH 22, BLOCK 8 AND LOTS 1 THROUGH 32, BLOCK 9, OF BISON MEADOWS SECOND ADDITION; AND A VACATION OF
THE STREETS, AVENUES AND EASEMENTS LYING AND BEING WITHIN THE BOUNDARY OF THIS PLAT AS DESCRIBED HEREIN
(A MAJOR SUBDIVISION)

OWNER'S CERTIFICATE AND DEDICATION:
KNOWN ALL PERSONS BY THESE PRESENTS: That Thomson Homes, LLC, a North Dakota limited liability
company and Fargo Park District, do hereby certify that we are the owners of the land located in that part of the
replat of the Meadow View Addition of Section 12, Township 138 North, Range 49 West of the Fifth Principal
Meridian, Cass County, North Dakota, described as follows:
Lots 1 through 44, Block 2, Lots 1 through 45, Block 4, Lots 1 through 21, Block 5, Lots 1 through 22, Block
8 and Lots 1 through 32, Block 9 of Bison Meadows Second Addition to the City of Fargo according to the
recorded plat thereof, Cass County, North Dakota,
Containing 24.16 acres, more or less.
And that said parties have caused the same to be surveyed and platted as "MEADOW VIEW ADDITION" to the
City of Fargo, Cass County, North Dakota, and do hereby dedicate all Streets, Avenues, Drives, and Easements
shown on said plat to the Public and hereby vacate all Streets, Avenues and Easements dedicated on the plat of
said Meadow View Addition shown as "Existing" boundary Meadow View Addition, except those easements on
said Meadow View Addition shown as "Existing".

Owner:
Fargo Park District
Let 28, Block 2 of Bison Meadows Second Addition to the City of Fargo according to the recorded plat
thereof, Cass County, North Dakota.

Valid Director, President
State of North Dakota) SS
County of Cass)
On this ____ day of _____, 20____, appeared before me, Vick Dawson, President, Fargo Park District,
known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me
that they executed the same on behalf of said Fargo Park District.

Notary Public: _____
Owner:
Thomson Properties, LLC
Lots 1 through 27 and Lots 29 through 44, Block 2, Lots 1 through 45, Block 4, Lots 1 through 21, Block 5,
Lots 1 through 22, Block 8 and Lots 1 through 32, Block 9 of Bison Meadows Second Addition to the City of
Fargo according to the recorded plat thereof, Cass County, North Dakota.

Chris Thomssen, President
State of North Dakota) SS
County of Cass)
On this 22nd day of October, 2021, appeared before me, Chris Thomssen, President, Thomson
Properties, LLC, a North Dakota limited liability company, known to me to be the person whose name is
subscribed to the above certificate and did acknowledge to me that they executed the same on behalf of the
limited liability company.

Notary Public: _____
Mortgage Holder:
Bank Forward
Marc Kristian, Market President
State of North Dakota) SS
County of Cass)
On this ____ day of _____, 20____, appeared before me, Marc Kristian, Market President,
Bank Forward, known to me to be the person whose name is subscribed to the above certificate and did
acknowledge to me that he executed the same on behalf of Bank Forward.

Notary Public: _____

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:
I, Leann Ness, Professional Land Surveyor under the laws of the State of North Dakota, do
hereby certify that this plat is a true and correct representation of the survey of said
addition; that the monuments by the guidance of future surveys have been located or
placed in the ground as shown.
Dated this 13th day of October, 2021.
Leann Ness, Professional Land Surveyor No. LP-8804
State of North Dakota)
County of Cass)

On this 13th day of October, 2021, before me personally appeared Leann
Ness, Professional Land Surveyor, known to me to be the person who is described in and
who executed the within instrument and acknowledged to me that he executed the same as
his free act and deed.
Notary Public: _____

CITY ENGINEER'S APPROVAL:
Approved by the Fargo City Engineer this ____ day of _____, 20____.
Brenda E. Demp, P.E., City Engineer
State of North Dakota)
County of Cass)

On this ____ day of _____, 20____, before me personally appeared Brenda E.
Demp, City Engineer of Fargo, known to me to be the person who is described in and who executed
the within instrument and acknowledged to me that she executed the same as her free act and
deed.
Notary Public: _____

FARGO PLANNING COMMISSION APPROVAL:
Approved by the City of Fargo Planning Commission this ____ day of _____, 20____.
Roddy Schneider, Chair
Fargo Planning Commission
State of North Dakota)
County of Cass)

On this ____ day of _____, 20____, before me personally appeared Roddy
Schneider, Chair, Fargo Planning Commission, known to me to be the person who is described
in and who executed the within instrument and acknowledged to me that he executed the same
on behalf of the Fargo Planning Commission.
Notary Public: _____

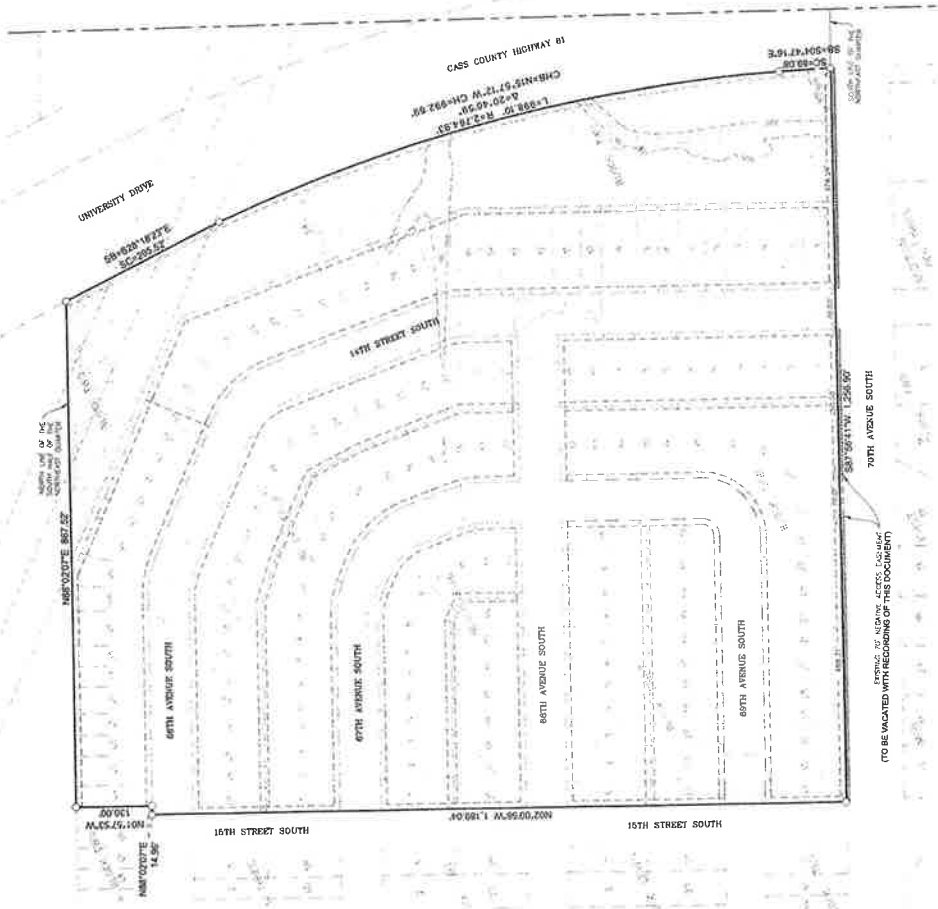
FARGO CITY COMMISSION APPROVAL:
Approved by the Board of City Commissioners and ordered filed this ____ day of _____, 20____.
Timothy J. Mahoney, Mayor
State of North Dakota)
County of Cass)

On this ____ day of _____, 20____, before me personally appeared Timothy
J. Mahoney, Mayor, City of Fargo and Steven Sorenson, City Engineer, known to me to be the persons who are described in and who executed the within instrument and
acknowledged to me that they executed the same on behalf of the City of Fargo.
Notary Public: _____

Mead & Hunt
meadhunt.com
Phone: 701-566-6450
PROJECT NO.
4609700-211204.01
SHEET 1 OF 4

MEADOW VIEW ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
 A REPLAT OF LOTS 1 THROUGH 44, BLOCK 2, LOTS 1 THROUGH 45, BLOCK 4, LOTS 1 THROUGH 21, BLOCK 5, LOTS 1
 THROUGH 7, BLOCK 8 AND LOTS 1 THROUGH 32, BLOCK 9 OF BISON MEADOWS SECOND ADDITION; AND A VACATION OF
 THE STREETS, AVENUES AND EASEMENTS LYING AND BEING WITHIN THE BOUNDARY OF THIS PLAT AS DESCRIBED HEREIN
 (A MAJOR SUBDIVISION)

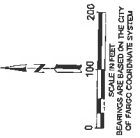


- NOTES**
1. THE EXISTING LOT LINES WITHIN THE PLAT BOUNDARY SHOWN ON THIS SHEET REPRESENT THE RECORD PLAT OF BISON MEADOWS SECOND ADDITION TO THE CITY OF FARGO, RECORDED OCTOBER 1, 2011 AT 2:38 PM AS DOCUMENT NO. 1032338.
 2. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
 3. NEGATIVE ACCESS EASEMENT AS LOCATED ON THE PLAT OF BISON MEADOWS ADDITION, IS AN EASEMENT DEDICATED AS PART OF THE RIGHT-OF-WAY DEDICATION WHICH ACCORDING TO THE RECORD PLAT OF BISON MEADOWS SECOND ADDITION, IS A PUBLIC-WAY FROM CENTERLINE TO RIGHT-OF-WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A GRASP-UP ROAD OR ANY CENTERLINE RIGHT-OF-WAY. IT IS A LINE COINCIDENT WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.
 4. THE MAJORITY OF THIS PLAT FALLS IN THE BLOCKMAP ZONE 14E ACCORDING TO THE BLOCKMAP AS LOCATED WITH AN EFFECTIVE DATE OF 1/1/2015. THE BASE 11000 ELEVATION IN THE AREA IS 302.00 (NAVD83) ACCORDING TO TDKA.
 5. CONTOUR INFORMATION SHOWN IS DERIVED FROM CITY OF FARGO 2017 LIDAR DATA.

- LEGEND**
- SET MONUMENT (SEE REBAR CAPTED PL-5-08M)
 - EXISTING NEGATIVE ACCESS EASEMENT (DOC 1032330)
 - - - - - NEGATIVE ACCESS EASEMENT TO BE VACATED WITH RECORDING OF THIS DOCUMENT
 - EXISTING PROPERTY LINE
 - - - - - EXISTING EASEMENT LINE
 - PLAT BOUNDARY
 - - - - - EXISTING EASEMENT TO BE VACATED WITH RECORDING OF THIS DOCUMENT
 - - - - - EXISTING ACCESS EASEMENT TO BE VACATED WITH RECORDING OF THIS DOCUMENT
 - - - - - EXISTING RIGHT-OF-WAY (TO BE VACATED WITH RECORDING OF THIS DOCUMENT)
 - - - - - MAJOR CONTOUR
 - - - - - MINOR CONTOUR

BENCHMARK

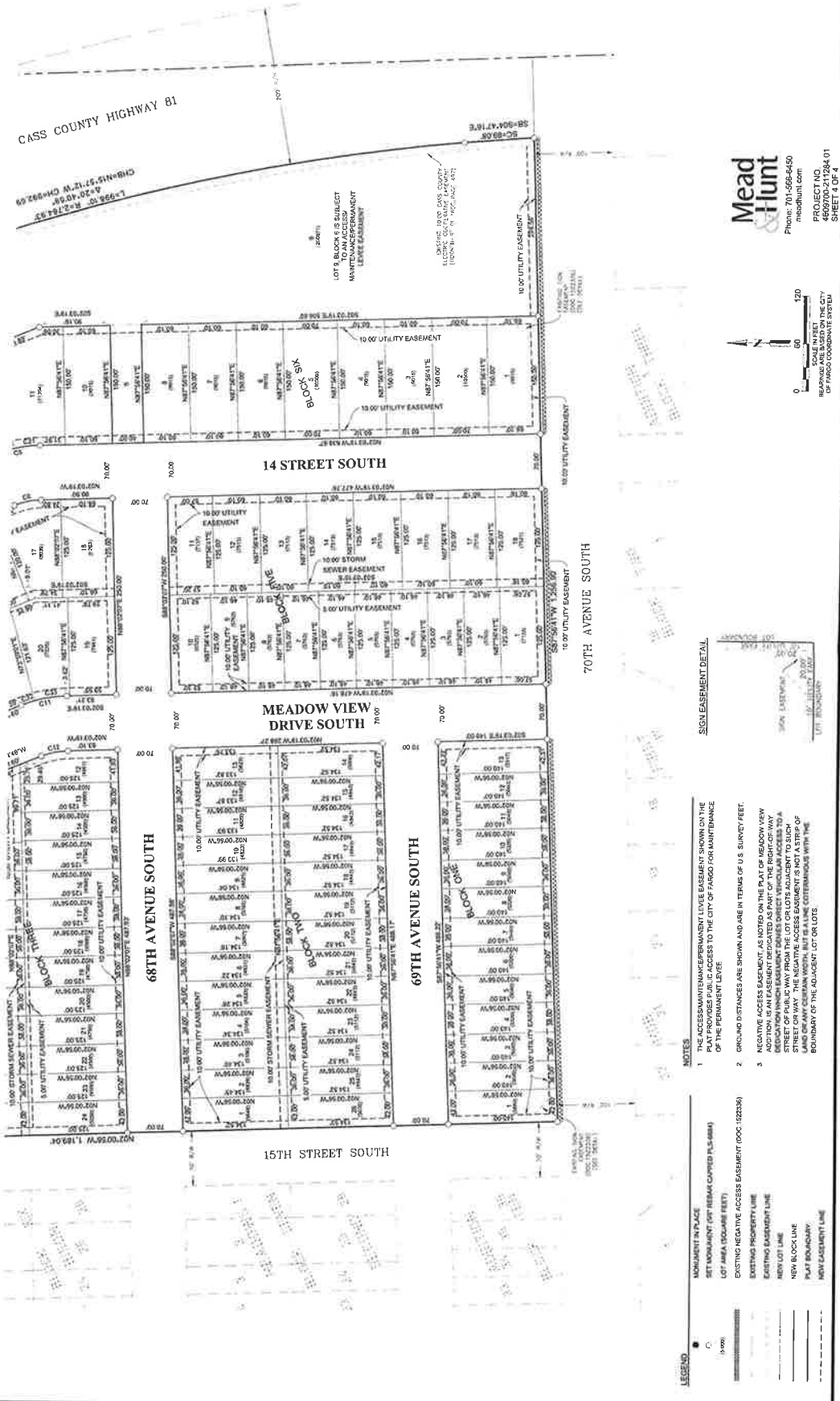
1. CHISEL "X" ON THE SW CORNER OF CONCRETE PLAT STATION 21 LOCATED IN THE NORTHEAST QUADRANT OF THE INTERSECTION OF UNIVERSITY DRIVE AND 15TH AVENUE SOUTH. ELEVATION = 308.83 (NAVD83)



Mead & Hunt
 Phone: 701-565-6450
 mead@mh.com
 PROJECT NO.
 4809700-211284.01
 SHEET 12 OF 4

MEADOW VIEW ADDITION

TO THE CITY OF FARCO, CASS COUNTY, NORTH DAKOTA
 A REPLAT OF LOTS 1 THROUGH 44, BLOCK 2, LOTS 1 THROUGH 60, BLOCK 4, LOTS 1 THROUGH 21, BLOCK 5, LOTS 1 THROUGH 22, BLOCK 8, AND LOTS 1 THROUGH 32, BLOCK 9, BISON TOWNSHIP, SECOND ADDITION; AND A VACATION OF THE STREETS, AVENUES AND EASEMENTS LYING AND BEING WITHIN THE BOUNDARY OF THIS PLAT AS DESCRIBED HEREIN (A MAJOR SUBDIVISION)



Mead & Hunt
 Planners
 Phone: 701.556.4450
 mead@mh.com

PROJECT NO. 24-01
 SHEET 4 OF 4

- NOTES**
1. ALL ACCESS AND UTILITY EASEMENTS SHOWN ON THIS PLAT ARE SUBJECT TO THE CITY OF FARCO FOR MAINTENANCE OF THE PERMANENT LEASE.
 2. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
 3. NEGATIVE ACCESS EASEMENT AS NOTED ON THE PLAT FOR MEADOW VIEW ADDITION IS AN EASEMENT DESIGNATED AS PART OF THE RIGHT-OF-WAY WHICH EASEMENT GRANTS DIRECT VEHICULAR ACCESS TO A STREET OR ALLEY FROM A LOT. THE NEGATIVE ACCESS EASEMENT IS NOT A STRIP OF LAND BEYOND THE RIGHT-OF-WAY, BUT IS A LINE COINCIDENT WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.

- LEGEND**
- MONUMENT IN PLACE
 - SETBACKMENT (FOR REBAR CAPTOP PLUMBING)
 - LOT AREA (SQUARE FEET)
 - EXISTING NEGATIVE ACCESS EASEMENT (DOC 1022368)
 - EXISTING PROPERTY LINE
 - EXISTING EASEMENT LINE
 - NEW LOT LINE
 - NEW BLOCK LINE
 - PLAT BOUNDARY
 - NEW EASEMENT LINE

SIGN EASEMENT DETAIL



MEADOW VIEW ADDITION

TO THE CITY OF FARCO, CASS COUNTY, NORTH DAKOTA
 A REPLAT OF LOTS 1 THROUGH 14, BLOCK 2, LOTS 1 THROUGH 21, BLOCK 5, LOTS 1
 THROUGH 22, BLOCK 8 AND LOTS 1 THROUGH 32, BLOCK 10, MEADOWS' SECOND ADDITION, AND A REVISION OF
 THE STREETS, AVENUES AND EASEMENTS LYING AND BEING WITHIN THE BOUNDARY OF THIS PLAT AS DESCRIBED HEREIN
 (A MAJOR SUBDIVISION)

| Curve # | Length | Radius | Delta |
|---------|--------|--------|------------|
| C1 | 71.37 | 170.00 | 111°30'37" |
| C2 | 41.92 | 100.00 | 24°11'09" |
| C3 | 138.09 | 170.00 | 45°21'30" |
| C4 | 80.05 | 100.00 | 48°13'30" |
| C5 | 59.41 | 170.00 | 20°31'29" |
| C6 | 34.95 | 100.00 | 20°31'29" |
| C7 | 71.27 | 170.00 | 24°11'09" |
| C8 | 41.92 | 100.00 | 24°11'09" |
| C9 | 138.09 | 170.00 | 45°21'30" |
| C10 | 80.05 | 100.00 | 48°13'30" |
| C11 | 59.41 | 170.00 | 20°31'29" |
| C12 | 34.95 | 100.00 | 20°31'29" |
| C13 | 71.27 | 170.00 | 24°11'09" |
| C14 | 41.92 | 100.00 | 24°11'09" |
| C15 | 138.09 | 170.00 | 45°21'30" |
| C16 | 80.05 | 100.00 | 48°13'30" |
| C17 | 59.41 | 170.00 | 20°31'29" |
| C18 | 34.95 | 100.00 | 20°31'29" |
| C19 | 71.27 | 170.00 | 24°11'09" |
| C20 | 41.92 | 100.00 | 24°11'09" |
| C21 | 138.09 | 170.00 | 45°21'30" |
| C22 | 80.05 | 100.00 | 48°13'30" |
| C23 | 59.41 | 170.00 | 20°31'29" |
| C24 | 34.95 | 100.00 | 20°31'29" |
| C25 | 71.27 | 170.00 | 24°11'09" |
| C26 | 41.92 | 100.00 | 24°11'09" |
| C27 | 138.09 | 170.00 | 45°21'30" |
| C28 | 80.05 | 100.00 | 48°13'30" |
| C29 | 59.41 | 170.00 | 20°31'29" |
| C30 | 34.95 | 100.00 | 20°31'29" |

| Curve # | Length | Radius | Delta |
|---------|--------|--------|------------|
| C1 | 71.37 | 170.00 | 111°30'37" |
| C2 | 41.92 | 100.00 | 24°11'09" |
| C3 | 138.09 | 170.00 | 45°21'30" |
| C4 | 80.05 | 100.00 | 48°13'30" |
| C5 | 59.41 | 170.00 | 20°31'29" |
| C6 | 34.95 | 100.00 | 20°31'29" |
| C7 | 71.27 | 170.00 | 24°11'09" |
| C8 | 41.92 | 100.00 | 24°11'09" |
| C9 | 138.09 | 170.00 | 45°21'30" |
| C10 | 80.05 | 100.00 | 48°13'30" |
| C11 | 59.41 | 170.00 | 20°31'29" |
| C12 | 34.95 | 100.00 | 20°31'29" |
| C13 | 71.27 | 170.00 | 24°11'09" |
| C14 | 41.92 | 100.00 | 24°11'09" |
| C15 | 138.09 | 170.00 | 45°21'30" |
| C16 | 80.05 | 100.00 | 48°13'30" |
| C17 | 59.41 | 170.00 | 20°31'29" |
| C18 | 34.95 | 100.00 | 20°31'29" |
| C19 | 71.27 | 170.00 | 24°11'09" |
| C20 | 41.92 | 100.00 | 24°11'09" |
| C21 | 138.09 | 170.00 | 45°21'30" |
| C22 | 80.05 | 100.00 | 48°13'30" |
| C23 | 59.41 | 170.00 | 20°31'29" |
| C24 | 34.95 | 100.00 | 20°31'29" |
| C25 | 71.27 | 170.00 | 24°11'09" |
| C26 | 41.92 | 100.00 | 24°11'09" |
| C27 | 138.09 | 170.00 | 45°21'30" |
| C28 | 80.05 | 100.00 | 48°13'30" |
| C29 | 59.41 | 170.00 | 20°31'29" |
| C30 | 34.95 | 100.00 | 20°31'29" |

LEGEND
 SET BACKMENT (S) REMAIN (R) (S) (R)
 LOT AREA (SQUARE FEET)
 EXISTING PROPERTY LINE
 EXISTING EASEMENT LINE
 NEW LOT LINE
 NEW BLOCK LINE
 PLAT BOUNDARY
 NEW EASEMENT LINE

NOTES
 1. THE ACCESSMENT PERMANENT EASEMENT SHOWN ON THE PLAT IS TO BE CONVEYED TO THE CITY OF FARCO FOR MAINTENANCE OF THE PERMANENT LEASE.
 2. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.



PROJECT NO. 4803200211284.01
 SHEET 3 OF 4



BEARINGS AND DISTANCES ARE BASED ON THE CITY OF FARCO COORDINATE SYSTEM

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 AN ORDINANCE REZONING A CERTAIN PARCEL
2 OF LAND LYING IN MEADOW VIEW ADDITION
3 TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

4 WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the
5 City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain
6 parcels of land lying in the proposed Meadow View Addition to the City of Fargo, Cass County,
7 North Dakota; and,

8 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning
9 request on June 3, 2021; and,

10 WHEREAS, the rezoning changes were approved by the City Commission on November
11 15, 2021,

12 NOW, THEREFORE,

13 Be It Ordained by the Board of City Commissioners of the City of Fargo:

14 Section 1. The following described property:

15 Lot Nine (9), Block Six (6) of Meadow View Addition to the City of Fargo, Cass
16 County, North Dakota;

17 is hereby retaining the base zoning of "P/I", Public and Institutional, District.

18 Section 2. The following described property:

19 Lots One (1) through Thirteen (13), Block One (1), Lots One (1) through Twenty-six
20 (26), Block Two (2), Lots One (1) through Twenty-four (24), Block Three (3), Lots
21 One (1) through Thirty-four (34), Block Four (4), Lots One (1) through Eighteen
22 (18), Block Five (5) and Lots One (1) through Eight (8), Ten (10) through Twenty-
23 nine (29), Block Six (6) of Meadow View Addition to the City of Fargo, Cass
County, North Dakota;

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

is hereby retaining the base zoning of "SR-4", Single-Dwelling Residential, District;

1 Section 3. The City Auditor is hereby directed to amend the zoning map now on file in his
2 office so as to conform with and carry out the provisions of this ordinance.

3 Section 4. This ordinance shall be in full force and effect from and after its passage and
4 approval.

Timothy J. Mahoney, M.D., Mayor

6 (SEAL)

7 Attest:

8
9
10 _____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

CITY OF Fargo Fire Department

38

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: FIRE CHIEF STEVE DIRKSEN

DATE: NOVEMBER 8, 2021

SUBJECT: INTRODUCTION OF BRADY SCRIBNER AS EMERGENCY MANAGER

In August this year, Leon Schlafmann retired after 32 years of service on the Fargo Fire Department. Leon served the last 12 years as the Emergency Manager for the City of Fargo.

A national search was conducted in August and September. 28 applications were received. Six applicants were interviewed. Following the interviews, an offer for employment was made to Brady Scribner and he accepted.

Brady is no stranger to the City of Fargo; he was employed by Fargo Cass Public health for 14 years. Brady was then employed by Essentia Health, serving as Emergency Preparedness Program Manager for five years, and then was promoted to Security Manager for the past year.

I am excited to have Brady return and put his knowledge and skills to work for the City of Fargo.

39

Office of the City Attorney

City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

November 10, 2021

Board of City Commissioners
City Hall
225 4th Street North
Fargo, ND 58102

RE: Court Order in Term Limits case

Dear Commissioners,

As you know, the Cass County District Court has issued its decision in the declaratory relief action filed by the City, at the direction of the City Commission, to request the Court's interpretation of the City's term limits ordinance, Section 2-0106. I have enclosed, for receipt and filing, a copy of the court's Order on Declaratory Judgment in the case entitled "In re Fargo Municipal Code Section 2-0106 of the Fargo Municipal Code, City of Fargo, Petitioner." The Court's order determined that Mayor Mahoney is eligible to run for Mayor in the June 2022 city election.

SUGGESTED MOTION: I move to receive and file the Order on Declaratory Judgment issued by the Cass County District Court issued November 9, 2021, in the case entitled "In re Fargo Municipal Code Section 2-0106" as presented.

Sincerely,



Erik R. Johnson

ERJ/lmw

Enclosure



STATE OF NORTH DAKOTA
COUNTY OF CASS

IN DISTRICT COURT
EAST CENTRAL JUDICIAL DISTRICT

| | |
|--|---|
| In re Fargo Municipal Code Section 2-0106, City of Fargo, Petitioner. | ORDER ON REQUEST FOR DECLARATORY JUDGMENT File No. 09-2021-CV-02661 |
|--|---|

[¶1] The City of Fargo (“the City”) seeks a declaratory judgment on the construction of Fargo Municipal Code § 2-0106. Specifically, the City requests the Court to determine whether Dr. Timothy Mahoney (“Mahoney”), current Mayor of the City of Fargo, is eligible to serve another term and be placed on the ballot as a mayoral candidate in the City’s June 2022 election.

Mahoney has intervened, without objection from the City, seeking similar declaratory relief.

[¶2] The city attorney has opined that Fargo Municipal Code § 2-0106 prohibits the City from placing Mahoney on the ballot as a candidate for mayor in the next mayoral election for the 2022-2026 term. Mahoney asserts that Fargo Municipal Code § 2-0106 allows him to be placed on the ballot and to run for the 2022-2026 mayoral term.

[¶3] The issue comes down to whether Mahoney is prohibited from serving another term based on the Limitation on Terms ordinance set forth in Fargo Municipal Code § 2-0106. The respective positions of the parties are further outlined below.

[¶4] For the reasons stated in this opinion, **the Court finds Mahoney is serving his third successive four-year term and concludes he is eligible to serve another term and be placed on the ballot as a mayoral candidate in the City’s June 2022 election.**

LEGAL BACKGROUND

[¶5] The City has adopted a “Home Rule Charter,” pursuant to N.D.C.C. Ch. 40-05.1. The City of Fargo’s Home Rule Charter provides the City with various powers which must be implemented through ordinances. See N.D.C.C. § 40-05.1. In order for the City to have a power set forth in N.D.C.C. § 40-05.1-06, the City must include the power in its Home Rule Charter and also implement the power through ordinance. The City of Fargo’s Home Rule Charter explains that the “Fargo city government shall operate with the commission form of government and that the governing body shall consist of the mayor and four commissioners, forming the board of city commissioners. The mayor is the presiding officer of the commission and the city’s chief executive officer.” F.M.C. Home Rule Charter, Art. 2(A)(1). The Fargo Municipal Code provides that “The mayor and four commissioners, hereafter collectively known as the board of city commissioners, shall be the governing body of the city of Fargo and shall perform all duties as specified by the laws of the state of North Dakota, the Fargo Home Rule Charter, and the ordinances of the city of Fargo.” F.M.C. § 2-0101. “The mayor may participate in all respects in commission action.” F.M.C. Home Rule Charter, Art. 2(A)(1). When a mayor is absent, unable to act, or if the mayor’s office becomes vacant, the deputy mayor becomes the acting mayor until a vacancy is filled. Id. at Art. 2(A)(5). The governing body elects one of its members as deputy mayor at the first meeting of the new governing body after each biennial election. Id.

[¶6] The Charter explains that the “mayor and all other members of the governing body shall hold office for four years until a successor has been duly elected and qualified.” F.M.C. Home Rule Charter, at Art. 2(A)(2). “The mayor and each of the commissioners shall be elected by all the voters in the city, and shall serve four-year terms. The mayor will be elected in the regular 1986 city election and every four years thereafter. The mayor’s term will start such day as is specified by city

ordinance.” Id. at Art. 2(A)(10). “Two city commissioners shall be elected in the 1986 city election and two in the 1988 city election. The terms shall begin on such day as is specified by city ordinance following each election and shall expire on such day as is specified by city ordinance four years thereafter.” Id. at Art. 2(A)(11). Elections are held biennially on the same date as the primary election as specified in North Dakota state law in each even-numbered year. F.M.C. § 2-0202. The primary election is held on the second Tuesday in June of every general election year. N.D.C.C. § 16.1-11-01. The term of each elective officer in the city of Fargo begins two weeks after the June election. F.M.C. § 4-0101.1.

[¶7] Any member of the governing board may resign by filing a written resignation with the city auditor. When a vacancy occurs or whenever a resignation is submitted pursuant to Section 12 of this Article, the governing body must call a special election to fill such vacancy for the unexpired term unless a city-wide election occurs within the next six months. In that case, the governing body may fill the position by appointment until the vacancy is filled by election. F.M.C. Home Rule Charter, Art. 2(A)(18).

TIMELINE

[¶8] On September 13, 2005, the City held a special election to fill a vacated city commissioner seat on the City of Fargo Board of Commissioners (“Board of City Commissioners”). On September 27, 2005, Mahoney became a city commissioner and a member of the Board of City Commissioners. At this time, Mahoney was elected to a term of less than four years as a result of a vacancy on the Board of City Commissioners.

[¶9] In June of 2006, Mahoney was elected to a four-year term as a city commissioner. Mahoney completed his four-year term as a city commissioner and as a member of the Board of City Commissioners. In June of 2010, Mahoney was elected to a four-year term as a city commissioner. Mahoney again completed his four-year term as a city commissioner and as a member of the Board

of City Commissioners. In June of 2014, Mahoney was elected to serve a four-year term as a city commissioner. Mahoney was also appointed by the Board of the City Commissioners to serve in the capacity as the deputy mayor.

[¶10] In the same June of 2014 election, Dennis Walaker, then Mayor of the City of Fargo (“Mayor Walaker”) was elected to a four-year term as Mayor of the City of Fargo. As mayor, he was also a member of the Board of City Commissioners. Mayor Walaker passed away on December 2, 2014, and did not complete his term. As deputy mayor, Mahoney began serving in the capacity of acting mayor following the death of Mayor Walaker. A special election was scheduled to be held April 28, 2015, in order to elect a mayor to serve out the remainder of Mayor Walaker’s term ending June of 2018.

[¶11] At this time, the City of Fargo Home Rule Charter, Art. A.12 provided “[n]o person who is currently serving as a city commissioner may become a candidate for the office of mayor without first resigning as a member of the board of city commissioners; provided, that such resignation shall be effective on such day as is specified by city ordinance following the election.”¹ F.M.C. § 4-0101.1 provided and still provides that the “term of each elective officer in the city of Fargo shall commence two weeks after the date of the election.” In order to become a candidate for the office of mayor, on or about January 28, 2015, Mahoney resigned his “City Commission Office” by written letter submitted to the city auditor to take effect two weeks after the April 28, 2015, special election on May 12, 2015. At the same time, Mahoney submitted his petition to run for mayor in the April 28, 2015, special election.² Because of the Home Rule Charter

¹ The proposed removal of this specific provision was placed on the ballot in the April 28, 2015 election by Resolution of the Board of City Commissioners in January of 2015.

² On April 28, 2015, Anthony Gehrig (“Gehrig”) was elected to fill Mahoney’s vacated city commission position also taking office and becoming a member of the Board of City Commissioners on May 12, 2015. Thus, Mahoney became the mayor and Gehrig became a city commissioner with both becoming members of the Board of City Commissioners on May 12, 2015.

resignation requirement, Mahoney's position as a city commissioner also became open and available on May 12, 2015, two weeks after the April 28, 2015, special election. A special election to fill Mahoney's vacated position was also set to be held on April 28, 2015.

[¶12] On April 28, 2015, Mahoney was elected Mayor of the City of Fargo to serve the remainder of Mayor Walaker's four-year term. Pursuant to city ordinance, he took office as mayor two weeks after the election on May 12, 2015. Although Mahoney resigned as a member of the Board of City Commissioners to enable him to run for mayor, his resignation was effective the same day he was elected mayor and as a result, became a member of the Board of City Commissioners. In June of 2018, Mahoney was elected to a four-year term as mayor. Mahoney's four-year term as mayor and a member of the Board of City Commissioners ends in June of 2022.

[¶13] Mahoney asserts he is eligible to serve another term. He has publicly declared that he intends to run for election for another four-year term as mayor in June of 2022. As a result, the City has requested a declaratory judgment as to whether Mahoney is eligible to serve another term and be placed on the ballot as a mayoral candidate in the June 2022 election. This involves interpreting the ordinance set forth in the Fargo Municipal Code § 2-0106 (hereinafter referred to as the "ordinance") entitled "Limitation on Terms." Fargo Municipal Code § 2-0106 provides as follows:

Limitation on terms. No member of the board of city commissioners may serve more than three (3) successive four-year terms; provided, that such term limitation shall be subject to the following:

- A. Any member elected to term of less than four years as a result of a vacancy on the board shall be eligible to serve three additional four-year terms.
- B. Any member who has completed three successive four-year terms shall not be eligible for re-election until the next regular election following the expiration of such member's third successive term.

- C. Any member who has served in the capacity of mayor, as well as city commissioner, may not serve more than four (4) successive four-year terms.
- D. The ordinance shall not apply to any member of the board whose first election as either mayor or commission occurred prior to April 1992.

[¶14] The City asserts Mahoney's fourth successive four-year term, as allowed by the ordinance, will end in June of 2022. The City argues Mahoney is not eligible to serve another term or be placed on the ballot as a mayoral candidate in the City's June 2022 election as that would be seeking a fifth successive four-year term as a member of the Board of City Commissioners. In taking its position, the City argues that when Mahoney was first elected in 2005, he was elected to a term of less than four years ending in 2006 as a result of a vacancy on the Board of City Commissioners. The City does not dispute that this initial partial term did not count toward his time in office and that Mahoney was entitled to three additional four-year terms. The City then argues that Mahoney's first term was from 2006-2010 and that his second term was from 2010-2014. The City then takes the position that Mahoney's third term was from June 2014-2018, because during all relevant times he was a member of the Board of City Commissioners serving in the capacity of mayor, as well as city commissioner. The City takes the position that Mahoney is currently serving his fourth successive term as a member of the Board of City Commissioners set to expire June of 2022.

[¶15] Mahoney's position appears to align with the City's position with regard to his initial partial term and his first two terms in office. Mahoney argues, however, that he has served in different capacities, was serving different terms, and that these terms were interrupted by partial terms allowing him additional four-year terms. He argues that because he was elected to fill Mayor Walaker's partial term from May 12, 2015 to June of 2018, he was entitled to three additional four-year terms. He argues that when he was elected to mayor for a four-year term in

2018, this was the first of those three additional four-year terms. It is his position that he is eligible to serve another term and be placed on the ballot as a mayoral candidate in the 2022 election because it would only be his second four-year term.

[¶16] The following sets forth the respective positions:

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| Elections and Terms | City's Position | Mahoney's Position |
|--|--|---|
| September 27, 2005 – June 2006 Elected city commissioner at a special election held on September 13, 2005, to a term of less than four years after a special election to fill a vacancy. | Partial term as a member of the Board of City Commissioners: elected after a special election to fill a vacancy. | Partial term as city commissioner: elected after a special election to fill a vacancy. |
| June 2006-June 2010 Ran for and was elected as a city commissioner. | First four-year term as a member of the Board of City Commissioners. | First four-year term as city commissioner. |
| June 2010-June 2014 Ran for and was elected as a city commissioner. | Second four-year term as a member of the Board of City Commissioners. | Second four-year term as city commissioner. |
| June 2014-June 2018 Ran for and was elected as a city commissioner <ul style="list-style-type: none"> • June of 2014 –May 12, 2015 served in the capacity of city commissioner and resigned his seat as a member of the Board of City Commissioners on May 12, 2015. • December 14, 2014, began serving as acting mayor following Mayor Walaker's death. | Elected to third four-year term as a member of the Board of City Commissioners | June 2014 to May 12, 2015 Served a partial term as city commissioner from when resignation took effect. |
| May 12, 2015-June 2018 Elected mayor at a special election held on April 28, 2015, to a term of less than four years to fill a vacancy. | | Elected to a term of less than four years to fill the vacancy of Mayor Walaker after a special election. |
| June 2018-June 2022 Elected mayor for a full four-year term. | Fourth successive four-year term as a member of the Board of City Commissioners. | First four-year term as mayor. |
| June 2022-June 2026 | Not eligible | Second potential four-year term as mayor. |
| June 2026-June 2030 | Not eligible | Third potential four-year term as mayor. |

LEGAL STANDARD

a. Declaratory Relief is Appropriate.

[¶17] This Court has the power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. N.D.C.C. § 32-23-01. The declaration may be either affirmative or negative in form and effect, and such declaration shall have the force and effect of a final judgment or decree. Id. Any person whose rights, status, or other legal relations are affected by a municipal ordinance may have determined any question of construction arising under the ordinance and “may obtain a declaration of rights, status, or other legal relations thereunder.” N.D.C.C. § 32-23-02. The word “person” as it applies to N.D.C.C. § 32-23-02 is construed to include a municipality such as the City of Fargo. N.D.C.C. § 32-23-13.

[¶18] The Court has the discretion to refuse to render or enter a declaratory judgment or decree if such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding. N.D.C.C. § 32-23-06. North Dakota’s Declaratory Judgment Act is remedial and its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations; it is to be construed and administered liberally. N.D.C.C. § 32-23-12.

[¶19] In this matter, the declaratory judgment or decree will terminate the uncertainty and controversy with respect to whether Mahoney is eligible to serve another term and be placed on the ballot as a mayoral candidate in the City’s June 2022 election. Whether Mahoney can run for mayor will impact the present members of the Board of City Commissioners and any potential member of the public who may otherwise run for mayor in the June 2022 election. Therefore, the Court finds declaratory relief is appropriate and will exercise its power to render and issue a declaratory judgment.

b. Statutory Construction and Interpretation.

[¶20] Courts interpret municipal ordinances and statutes by the same standard. GO Committee ex rel. Hale v. City of Minot, 2005 ND 136, ¶ 9, 701 N.W.2d 865. Statutory interpretation is a question of law. Schulke v. Panos, 2020 ND 53, ¶ 8, 940 N.W.2d 303, 305–06 (citing Guthmiller v. Director, N.D. Dep’t of Transp., 2018 ND 9, ¶ 6, 906 N.W.2d 73). “All of the provisions of the Fargo Municipal Code are to be construed according to the fair import of their terms with a view to effecting their objects and granting justice.” F.M.C. § 1-0104.

[¶21] The Courts’ primary objective in the interpretation of a statute is to determine legislative intent. Schulke, at ¶ 8 (citing Herman v. Herman, 2019 ND 248, ¶ 8, 934 N.W.2d 874). “When reviewing statutory provisions, we attempt to give meaning to every word, phrase, and sentence.” Id. (quoting State v. Comes, 2019 ND 290, ¶ 7, 936 N.W.2d 114 (citing State v. Kostelecky, 2018 ND 12, ¶ 8, 906 N.W.2d 77)). “Words used in any statute are to be understood in their ordinary sense, unless a contrary intention plainly appears.” N.D.C.C. § 1-02-02.

Whenever the meaning of a word or phrase is defined in any statute, such definition is applicable to the same word or phrase wherever it occurs in the same or subsequent statutes, except when a contrary intention plainly appears. N.D.C.C. § 1-01-09. Statutes are construed as a whole and harmonized to give meaning to related provisions. N.D.C.C. § 1-02-07. Statutes are construed to give effect to all of their provisions so no part of a statute is rendered inoperative or superfluous. N.D.C.C. § 1-02-38(2) and (4); State by & through Workforce Safety & Ins. v. Tolman, 2020 ND 223, ¶ 9, 950 N.W.2d 144, reh’g denied (Nov. 19, 2020). Where a general provision conflicts with a special provision in the same enactment, the two should be construed, if possible, to avoid an irreconcilable conflict and give effect to both provisions. District One Republican Comm. v. District One Democrat Comm., 466 N.W.2d 820, 824 (N.D. 1991).

[¶22] When the wording of a statute is clear and free of all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit. N.D.C.C. § 1-02-05. “We do not have authority to rewrite unambiguous statutes to correct alleged legislative ‘oversights,’ and we are not free to ‘amend’ or ‘clarify’ the plain language of a statute under the guise of statutory interpretation. If changes to a plain and unambiguous statute are necessary to effectuate a claimed intent, those actions must be accomplished by the legislature.” Riemers v. Jaeger, 2018 ND 192, ¶ 14, 916 N.W.2d 113 (citations omitted). “When a provision at issue is unambiguous, we look to the plain language of the statute to ascertain its meanings.” Schulke, at ¶ 8 (quoting State v. Comes, 2019 ND 290, ¶ 7, 936 N.W.2d 114 (citing N.D.C.C. § 1-02-05)).

[¶23] “A statute is ambiguous when it is susceptible to differing, but rational, meanings.” Schulke, at ¶ 8 (quoting Doyle ex rel. Doyle v. Sprynczynatyk, 2001 ND 8, ¶ 10, 621 N.W.2d 353). Provisions in a statute that are clear and unambiguous when read apart can be ambiguous when read together for particular facts. State v. Brossart, 1997 ND 119, ¶ 15, 565 N.W.2d 752; Kroh v. American Family Ins., 487 N.W.2d 306, 308 (N.D. 1992). When interpreting statutes, the courts presume the legislature intended a just and reasonable result. Aanenson v. Bastien, 438 N.W.2d 151 (N.D. 1989). Courts “construe statutes to avoid absurd or illogical results.” Hunts Along v. Director, North Dakota Department of Transportation, 2018 ND 261, ¶ 5, 920 N.W.2d 491. Extrinsic aids may be used to interpret a statute if the language is ambiguous or of doubtful meaning, if adherence to the strict letter of the law would lead to an absurd result, and to determine whether the interpretation is in harmony with legislative intent. Harter v. North Dakota Dept. of Transp., 2005 ND 70, ¶ 7, 694 N.W.2d 677; State v. Stegall, 2013 ND 49, ¶ 16, 828 N.W.2d 526; Shiek v. North Dakota Workers Comp. Bureau, 2001 ND 166, ¶ 17, 634 N.W.2d 493.

[¶24] This case also involves eligibility for office, the ability of a person to participate in government, and the ability of a voter to choose who should hold office. As such, Mahoney requests that the Court follow other states in adopting the presumption of eligibility, or the “Democracy Canon” by resolving any doubt in favor of eligibility. Mahoney, citing a Washington state case, argues that in a democracy, it is for the voters to decide whom they want to represent them and only the most compelling legal argument to the contrary should deny someone that right.

See Gerberding v. Munro, 949 P.2d 1366, 1373 (Wash. 1998). The Gerberding case explains:

Since the right to participate in the government is the common right of all, it is the unqualified right of any eligible person within the state to aspire to any of these offices, and equally the unqualified right of the people of the state to choose from among those aspiring the persons who shall hold such offices. It must follow from these considerations that eligibility to an office in the state is to be presumed rather than to be denied, and must further follow that any doubt as to the eligibility of any person to hold an office must be resolved against the doubt.

Id. at 949 P.2d 1366, 1373 (Wash. 1998) (quoting a 1930 Washington case). Mahoney cites to other jurisdictions that have adopted the presumption in favor of eligibility. See Carter v.

Commission on Qualifications of Judicial Appointments, 93 P.2d 140 (Calif. 1939)

(“[a]mbiguities are to be resolved in favor of eligibility to office”); Cathcart v. Meyer, 88 P.3d

1050, 1070 (Wyo. 2004) (adopting policy that “there is a strong presumption in favor of

eligibility for office”); Municipality of Anchorage v. Mjos, 179 P.3d 941, 943 (Alaska 2008)

(where there is a statutory ambiguity as to whether or not a candidate is eligible to run for office, the statute should be construed in favor of eligibility, so long as it may be reasonably so read);

State ex rel. Knowlton v. Noble Cty. Bd. of Elections, 935 N.E.2d 395, 404 (courts have a duty

to liberally construe words limiting the right of a person to hold office in favor of those seeking

to hold office so that the public may have the benefit of choice from all qualified persons); see

also Richard L. Hasen, *The Democracy Canon*, 62 *Stan. L. Rev.* 69, 84 (2009).

[¶25] Mahoney explains that the Democracy Canon of statutory construction has existed throughout American state courts since the 1800s.

The Canon's stated purposes usually are described in terms of its role in fostering democracy. Its purpose is "to give effect to the will of the majority and to prevent the disfranchisement of legal voters. . . ." The canon plays a role in "favoring free and competitive elections . . ." It recognizes that the right to vote "is a part of the very warp and woof of the American ideal and it is a right protected by both the constitutions of the United States and of the state." Liberal construction of election laws serves "to allow the greatest scope for public participation in the electoral process, to allow candidates to get on the ballot, to allow parties to put their candidates on the ballot, and most importantly to allow voters a choice on Election Day."

Richard L. Hasen, "The Democracy Canon," 62 Stan. L. Rev. 69, 77 (2009). The North Dakota Supreme Court has given favorable inferences in other situations where important rights are involved. See City of Bismarck v. Fetting, 1999 ND 193, ¶ 8, 601 N.W.2d 247 (construing constitutional provisions); and State v. Stegall, 2013 ND 49, ¶ 20, 828 N.W.2d 526 (construing whether conduct is criminal or not). A similarly important right is involved here but the North Dakota Supreme Court has not yet determined whether to apply the Democracy Canon for the purposes of statutory construction.

ANALYSIS

[¶26] The parties construe the ordinance in different ways. The City focuses on Subpart C of the ordinance. The City argues that the ordinance requires a construction that focuses on a member's total time in office. The City asks the Court to construe the ordinance to mean that any member of the Board of City Commissioners who has continuously served on the Board of City Commissioners, in either the capacity of mayor or city commissioner, is limited to serve a total of 16 years. The City argues that Mahoney will have served in the capacity of mayor, as well as a city

commissioner, successively for 16 years by the time of the next election, and as such, is not eligible to serve an additional term.

[¶27] Mahoney focuses on Subpart A of the ordinance. Mahoney argues that Subpart A of the ordinance precludes the Court from counting partial terms of office when determining term limits. Mahoney takes the position that the partial terms he served should not be counted toward the term limitations, and that someone serving in the capacity of the mayor, as well as the city commissioner, cannot be considered to have served a term unless it was a full four-year term in one capacity as either mayor or a commissioner. He argues his election in 2015 to a partial term triggered Subpart A and resulted in him being eligible to serve three additional four-year terms. He further argues that his two partial terms in the capacities of mayor and city commissioner cannot be counted as one term when determining his four successive four-year terms.

[¶28] The ordinance at issue states that “no member of the board of city commissioners may serve more than three (3) successive four-year terms.” If a member of the Board of City Commissioners completes three successive four-year terms that member “shall not be eligible for re-election until the next regular election following the expiration of such member’s third successive term.” If Mahoney had only served as a city commissioner and not also served in the capacity of mayor, the entire ordinance as applied would be clear and unambiguous. Because he was first elected to a partial term, as a result of a vacancy, his initial partial term on the Board of City Commissioners would have made him eligible for three additional four-year terms. The first of those three terms would have been from 2006-2010, the second from 2010-2014, and the third from 2014 to 2018. Because Mahoney would have then completed three successive four-year terms, he would not have been eligible for re-election until the next regular election following the expiration of his third term.

[¶29] In this case, however, Mahoney, as a member of the Board of City Commissioners, has served in the capacity of mayor, as well as city commissioner. As such, Subpart C provides that he “may not serve more than four (4) successive four-year terms.” Had Mahoney served as a city commissioner for three four-year terms (2006-2018) and then been elected to a four-year term as mayor for the first time in 2018, as opposed to a partial term in 2015, the ordinance would also clearly and unambiguously provide he would not be eligible to serve another four-year term.

[¶30] The ordinance does not specifically address the set of facts we have here where a current member of the Board of City Commissioners resigns his or her current office and is elected to a partial term of another office as a result of a vacancy and who continuously serves as a member of the Board of City Commissioners without interruption. Further, the ordinance does not address the situation where a member of the Board of City Commissioners serves as both mayor and city commissioner during a single four-year period of time while continuously in office. The meaning of the ordinance becomes less clear as applied to these facts and when trying to construe Subparts A and C together.

[¶31] The Court cannot reconcile Subpart A with Subpart C and apply Subpart A to a sitting member of the Board of City Commissioners. As applied, a commissioner who happened to transition offices by being elected to a partial term as a result of a vacancy, would be treated differently than a sitting commissioner who transitions offices in other circumstances. For example, a commissioner who transitions offices by being elected to a full term would not receive three additional four-year terms. Subpart C of the ordinance specifically addresses the situation where a member serves in the capacities as both mayor and city commissioner and allows the member only one additional four-year term. It would be an absurd result if a member could obtain three additional four-year terms, thereby breaking the successiveness of their four four-year terms,

solely by being elected to a partial term as a result of a vacancy. In fact, allowing any partial term to break the successiveness of the four four-year terms, allowed by Subpart C, would be illogical.

[¶32] The mayor's term is every four years starting in 1986. City commissioners also have four-year terms. Two commissioners have terms that align with the mayor's term also starting in 1986 and two have staggered terms starting in 1988. For commissioners serving staggered terms from that of the mayor, a transition from mayor to commissioner or commissioner to mayor would always result in a partial term and break the successiveness of the terms. Allowing partial terms to break the successiveness of the four four-year terms would result in commissioners who are serving staggered terms automatically receiving more terms in office. A city commissioner whose term aligns with the mayor, on the other hand, and who serves no partial terms, would not be entitled to any additional terms. As applied to this case, Mahoney would be eligible to receive three additional four-year terms in addition to the terms he has already served solely because his transition to the office of mayor was as a result of a vacancy on the Board of City Commissioners and involved him being elected to a partial term. It would be an absurd result if sitting members of the Board of City Commissioners could obtain additional terms solely because they transitioned offices as a result of being elected to a partial term as a result of a vacancy. It would also be an absurd result if a sitting member could obtain additional terms if transitioning to another office happens to create a partial term.

[¶33] Adhering to the strict letter of the ordinance by applying Subpart A when Subpart C is operable and construing the ordinance to allow partial terms to break the successiveness of the terms in office would be illogical and render Subpart C meaningless and of no effect. As set forth above, such a construction could result in similarly situated members receiving significantly different term limitations. On the other hand, interpreting the ordinance as requested by the City, requires the

Court to ignore the very separate and distinct terms of office for commissioners and the mayor. Although the City's proposed interpretation seems to be rational when applied to a commissioner whose term aligns with that of the mayor and who serves no partial terms, the ordinance does not seem to contemplate a commissioner whose term is staggered from that of the mayor or one who serves a partial term. The usage of "term" and the treatment of a "partial term" in the ordinance are of doubtful meaning as applied. Because extrinsic aids may be used to interpret an ordinance if the language is ambiguous or of doubtful meaning, if adherence to the strict letter of the law would lead to an absurd result, and to determine whether the interpretation is in harmony with the intent, the Court will look to extrinsic aids. Harter v. North Dakota Dept. of Transp., 2005 ND 70, ¶ 7, 694 N.W.2d 677; State v. Stegall, 2013 ND 49, ¶ 16, 828 N.W.2d 526; Shiek v. North Dakota Workers Comp. Bureau, 2001 ND 166, ¶ 17, 634 N.W.2d 493.

EXTRINSIC AIDS

[¶34] The applicable section of Fargo's Municipal Code regarding term limits states it was enacted in 1988 and amended in 1992. F.M.C. § 2-0106. The City has clarified that the 1988 version did not involve term limits and that the 1992 version is the first version of the ordinance. The Court has been provided with the relevant meeting minutes during which the Board of City Commissioners discussed the ordinance.

[¶35] On June 1, 1992, the Board of City Commissioners first discussed the ordinance, and its purpose and effect. The ordinance was proposed by Commissioner Furness who said the intent of the ordinance would be as follows:

1. No Mayor or City Commissioner will serve more than three successive four-year terms.
2. A Mayor or City Commissioner elected for a term of less than four years as a result of a vacancy will still be eligible to serve three successive terms.

3. A person ineligible for election because of this ordinance may again become eligible after a two-year absence.
4. A Mayor or City Commissioner serving at the time this ordinance becomes effective will not be subject to its terms.
5. Any combination of service as City Commissioner and/or Mayor is subject to this restriction.

[¶36] In a communication from Commissioner Furness, he expressed that he felt term limits were a good idea for the following reasons: “encourages new persons to run for office; assures more competition in the election process; minimizes the advantage of incumbency; prevents ‘professional’ office-holders; attracts more qualified candidates, [and are] already in place for [the] President and some Governors.” On June 15, 1992, the Board of City Commissioners discussed correspondence from the then city attorney. The city attorney explained that Fargo Municipal Code Section 2-0101 establishes the governing body of the City as “the mayor and four commissioners, hereafter collectively known as the board of city commissioners” and since the mayor is specifically designated as a member of the board, the three term limitation would apply “whether or not a portion of the service is as mayor and the remainder as a commissioner.” Commissioner Preston stated her concern that “the commission might be a preparatory step to be mayor and that this ordinance would provide that someone who has served two terms as a commissioner could only serve one term as mayor.” On June 29, 1992, Commissioner Preston reiterated her concern about the mayor being included in the three-term limitation. She stated “if a person is a city commissioner for eight years the person should also be allowed to serve as mayor for eight years.” Commissioner Preston requested that the ordinance be amended to allow for an additional term for a total of 16 years if there is a combination of service as a city commissioner and mayor. Commissioner Preston stated, “there is a disincentive for someone to

sit on the city commission and then run for mayor.” She said, “the mayor position is different from a city commission position and has different responsibilities and different duties.” She expressed, “sitting on the commission is going to prepare someone for being mayor” and one more term would help.

[¶37] When discussing the ordinance, the Board of City Commissioners did not discuss or consider staggered or partial terms and how those terms would apply to the ordinance.

Commissioner Preston mentions 16 years but also mentions the mayor having the ability to serve more than one term and it being a different position. The minutes do not assist the Court in the intent of the governing body as to how partial terms in office should be treated. For the reasons stated above, the Court concludes that Subpart A does not apply to a sitting board member and that Mahoney’s partial terms do not break the successiveness of his terms. The Court finds that Subpart C applies.

[¶38] Mahoney argues his two partial terms in different capacities cannot be considered one four-year term for the purposes of Subpart C of the ordinance even though he has continually served in the capacity of mayor, as well as city commissioner. As previously stated, the City argues the ordinance must be construed as time someone has served as a member of the Board of City Commissioners. The City does not cite any cases supporting its position and neither party has cited cases that involve this unique fact situation.

[¶39] Subpart C of the ordinance says any member who has served in the capacity of mayor, as well as city commissioner, may not serve more than four (4) successive four-year terms. Subpart C does not talk about continuous years of service or total time as a member of the Board of City Commissioners. The North Dakota Supreme Court has held that a term of office is separate and distinct from the tenure of the individual officer, and the tenure of an officer may be greater or less

than a fixed term of office. See State ex rel. Spaeth v. Olson ex rel Sinner, 359 N.W.2d 876 (N.D. 1985); NDAG 2004-L-19. The “term” as applied to an office, refers to a “fixed and definite period of time which the law describes that an officer may hold an office.” Id. at 881. Applying North Dakota’s definition of “term,” the “term” of mayor and “term” of city commissioner have distinct fixed periods of time and are separate offices. Where terms of office are clearly defined, other jurisdictions have held that partial terms do not count as a full terms for term limitation purposes. See Martinez v. Hernandez, 227 So.3d 1257 (Fla. Dist. Ct. App. 2017) (partial term served by the mayor, consisting of the remaining term of the preceding mayor who resigned, did not count as a full term for purposes of the city charter’s two-term limit); and Schardein v. Harrison, 18 S.W.2d 316, 317 (Ky. 1929) (finding term limitation and disqualification provisions only applied to mayors elected to a full term, not to officers appointed to fill an unexpired term of a preceding mayor). See also Municipality of Anchorage v. Mjos, 179 P.3d 941, 943, n.1 (Alaska 2008) (relying on the presumption in favor of candidate eligibility to conclude that term limits statutes should be interpreted to allow those serving partial terms to run for additional terms of office).

[¶40] Applying the ordinary definition of “term,” and as defined by applicable Charter and ordinance provisions, Mahoney cannot be said to have served four successive four-year terms. Counting each four-year period of time as a “term” ignores the distinct offices. It also ignores the possibility that not all terms will align to a period of exactly 16 years. For example, had Mahoney been serving a staggered commissioner term at the time he was first elected, he would have completed 16 years in 2024 in the middle of the 2022-2026 mayoral term. The Charter explains that the “mayor and all other members of the governing body shall hold office for four years until a successor has been duly elected and qualified.” F.M.C. Home Rule Charter, Art. 2(A)(2). “The mayor and each of the commissioners shall be elected by all the voters in the city, and shall serve

four-year terms.” Id. at Art. 2(A)(10). The terms shall begin on such day as is specified by city ordinance following each election and shall expire on such day as is specified by city ordinance four years thereafter.” Id. at Art. 2(A)(11). There is nothing in the Charter or any city ordinance that suggests a term would end other than after four years of service. Therefore, Mahoney’s service from 2014-2018, consisting of two partial terms, cannot be considered in determining his eligibility for election. Excluding these partial terms, Mahoney would be serving his third successive four-year term and would be eligible to serve another term and be placed on the ballot as a mayoral candidate in the City’s June 2022 election.


CONCLUSION AND ORDER

[¶41] Mahoney is eligible to serve another term and be placed on the ballot as a mayoral candidate in the City’s June 2022 election.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated this 9th day of November, 2021.

BY THE COURT:




Hon. Stephannie N. Stiel
Judge of District Court



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MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: JIM GILMOUR, STRATEGIC PLANNING DIRECTOR 

DATE: NOVEMBER 8, 2021

SUBJECT: CIVIC CENTER PARKING RAMP EXPANSION

The need for additional parking downtown will continue to grow as vacant office space is leased by businesses. The highest demand for parking is in the core of the downtown at the Roberts Commons Garage and the Civic Center Parking Ramp attached to the skyway system.

The Civic Center Ramp was designed for a vertical expansion to add an additional 68 parking spaces on one additional level. Fargo recently contracted with Walker Consultants to conduct a Vertical Expansion Feasibility Study to see if this expansion was still feasible and provide cost estimates. The study confirms that a one level expansion is feasible with an anticipated project cost of \$2.8 million. Revenue from the sale of the Island Park Ramp can be used for this vertical expansion. That Island Park Ramp sale closed on November 1.

Fargo used Walker Consultants on several activities for this parking ramp. This included some recent repairs, a condition assessment of city parking facilities and the Vertical Expansion Feasibility Study. Because of this familiarity with this parking ramp, the Finance Committee is recommending Walker Consultants be hired to provide engineering services. The proposed agreement is attached.

It is important to begin now so construction can be done next summer. Summer is best because of the warmer weather, lower parking demand and a better time for short-term relocation of cars to other nearby locations.

RECOMMENDED MOTION:

Approve the agreement with Walker Consultants for services for the Civic Center Garage Vertical Expansion.

Attachments



1660 South Highway 100, Suite 545
Minneapolis, MN 55416

952.595.9116
walkerconsultants.com

August 16, 2021

Mr. James Gilmour
Director of Strategic Planning
City of Fargo
225 4th St. North
Fargo, ND 58102

*Re: Proposal for Building Design Services
Civic Center Garage Vertical Expansion
Fargo, North Dakota*

Dear Mr. Gilmour:

Walker Consultants (Walker) is pleased to submit this parking facility addition proposal to the City of Fargo (Owner). We will provide consulting A/E design services for the one-level vertical expansion for the existing Civic Center Parking Ramp in downtown Fargo, North Dakota. The purpose of this letter is to define the Scope of Services, establish the fee, and to serve as your written authorization for Walker Consultants to proceed with the work.

PROJECT UNDERSTANDING

We understand that the City of Fargo is considering additional parking to support future downtown Fargo commercial and residential parking demand. As identified in previous 2015 site evaluation and Walkers' s previous April 14, 2021 Civic Center Garage Vertical Expansion Feasibility Study, a one-level vertical expansion with accessibility accommodation is the most desirable and achievable downtown parking expansion solution.

For the vertical expansion project, the design team will review existing construction documents, visit the site to understand the existing conditions, and confirm assumed limits of the work. The design team is comprised of Walker Consultants as design project manager and structural engineer, Craftwell Architects for architectural services and Steen Engineering for mechanical, electrical and low voltage/security.

The existing garage structure is currently understood to be dependent on the existing Radisson Hotel structure for vertical support, elevator access and electrical infrastructure connectivity.

The project will exclude improvements for the floor areas that do not contain public parking. These areas may include minimal exterior, access, or lighting treatment improvements benefitting public safety, or aesthetic coordination for the vertical expansion.



SCOPE OF SERVICES

To provide Civic Center Garage one-level vertical expansion Walker proposes to provide design services excluding geotechnical investigations, civil engineering, and materials testing.

Our scope shall include the following:

A. SCHEMATIC DESIGN

1. Meet with the Project Team to confirm the program for the project and review conceptual design work to date.
2. Review available construction documents and visit the project site to determine site conditions and better confirm our proposed scope of work. Verify utilities sources and existing connectivity.
3. Assist the Owner in further communicating the scope of the work with other stakeholders. The design team will preliminarily identify building system modifications that may impact hotel or skywalk.
4. Design team will prepare preliminary building elevations (with limited detail) for early public notification and exterior material review. Our drawings may be combined with Owner provided project information to complete any required preliminary City planning submittal package.
5. Develop the parking structure function, layout vehicle flow, parking stalls, pedestrian accessible access, confirm entry/exit capacities and relationships to the adjacent buildings, property lines, and the materials management structures and truck docks.
6. Determine the extents and composition of the egress stairs and relationships with the existing Radisson elevator and stair improvements.
7. Confirm adjacent structure accommodations and building setback requirements.
8. Solidification of minimum code required facility enhancements including requirements of the Americans with Disabilities Act Design Guidelines (ADAAG).
9. Nominally identify stair tower enclosure systems and limit requirements. develop vehicular barrier concepts and coordinate with architectural.
10. Conceptualize electrical, plumbing and mechanical systems including fire protection and recommend CCTV design for parking structure.
 - a. NOTE: Walker will not perform as a Security analysis of the subject property or perform as a security consultant for this scope of work. Walker will provide basic recommends for implementation of a CCTV system as directed by the City of Fargo.
11. Attend up to two (2) site observation or Owner meetings this phase.



B. DESIGN DEVELOPMENT

1. Update the schematic plans for the parking structure to confirm the following:
 - a. Vehicular and pedestrian flow.
 - b. Parking layout.
 - c. Stair tower limits and attributes.
2. Further develop the architectural design including architectural elevations, wall sections, finish materials and outline specifications for the parking structure.
3. Prepare typical tier framing plans and details for the selected structural concrete system for the parking structure.
 - a. Locate and detail recommended expansion joints for the structure.
4. Recommend parking structure lighting layouts to provide for economy while maintaining necessary intensities for security. Provide re-lighting concept for existing parking area.
5. Recommend switching and circuitry in the parking structure for energy savings.
6. Provide nominal security CCTV design and connectivity criteria for the parking structure.
7. Provide floor drain locations and identify tie-ins to the existing utility lines.
8. Prepare mechanical and plumbing plans. Review options for the mechanical system. We anticipate that the parking structure design will be classified as an open parking structure and therefore will not require a ventilation system.
9. Determine fire protection system requirements for the parking structure. We anticipate that a dry standpipe system will be extended and that a sprinkler system will not be required in this design scope.
10. Review the design development documents with the Project Team.
11. Attend up to one (1) project Owner/team on-site meeting.

C. CONSTRUCTION DOCUMENTS

1. Prepare functional design and structural construction documents for the proposed parking structure including striping, graphics, and any access and revenue control equipment modification as required.
2. Prepare the architectural construction documents for the proposed parking structure based on the Owner approved parking structure design development documents.



3. Prepare mechanical electrical, plumbing, fire protection and low voltage construction documents for the proposed parking structure based on the Owner approved parking structure design development documents.
4. Prepare technical specifications for expansion building elements.
5. Review with Owner at 50% and 90% completion of the documents. Respond to Owner's project review comments.
6. Provide design team construction cost estimate and review cost alternatives with Owner.
7. Attend up to two (2) Project Team meetings in this phase.

D. CONSTRUCTION BIDDING & ADMINISTRATION

1. Assist the Owner to advertise the construction documents and attending pre-bid meeting.
2. Interpret construction documents, answer questions and issue addenda, as needed.
3. Review shop drawings and materials submittals for designed items. Attend one structural pre-concrete pour meeting and review project conditions prior to first P/T concrete placement.
4. Coordinate on-site observations and attend construction meetings at appropriate intervals during construction to observe the construction work for conformance with contract documents.
5. Assist the Owner with preparing Change Orders and Construction Change Directives.
6. Prepare punchlist of structural, architectural, mechanical, electrical, low voltage and plumbing systems as designed.
7. Attend up to five (5) project general contractor and Owner construction meetings.

PROFESSIONAL FEE & SCHEDULE

We will proceed with the defined services based on written authorization and will work toward your schedule. The current schedule expectation is to begin facility design in October 2021 for construction document completion in February 2021. Construction bidding and field procurement scheduled for March 2022 with substantial completion December 2022. Subsequent study, design phase and additional scope items, should they be required, will be accommodated for by an addition to this agreement, based on project requirements, as defined by the Client.

We propose to provide Scope of Services for a lump sum fee including expenses of \$211,980 and in accordance with the included General Conditions of Agreement for Consulting Services.

Reimbursable expenses will be included in fee invoiced at 1.05 times the actual cost and include such items as



local transportation, toll telephone calls, facsimiles, postage, express delivery services, reproduction of reports drawings and specifications, and similar project related items. We have budgeted \$5,600 for construction reimbursables.

We thank you for the opportunity to continue to serve as your parking consultant, and look forward to working with City of Fargo on this interesting project. If you have any questions concerning this proposal, please call me at 612.281.3022.

Sincerely,

WALKER CONSULTANTS

Scott R. Froemming, P.E.
Principal | Vice President

Enclosures General Conditions of Agreement for Design Services

AUTHORIZATION

Trusting that this meets with your approval, we ask that you sign in the space below to acknowledge your acceptance of the terms contained herein, and to confirm your authorization for us to proceed. Please return one signed original of this agreement for our records.

CITY OF FARGO

Accepted by (Signature) _____

Printed Name _____

Title _____

Date _____



SERVICES

Walker Consultants ("WALKER") will provide the CLIENT professional services that are limited to the work described in the attached letter ("the services"). Any additional services requested will be provided at our standard hourly rates or for a mutually agreed lump sum fee. The services are provided solely in accordance with written information and documents supplied by the CLIENT and are limited to and furnished solely for the specific use disclosed to us in writing by the CLIENT. No third-party beneficiary is contemplated. All documents prepared or provided by WALKER are its instruments of service, and any use for modifications or extensions of this work, for new projects, or for completion of this project by others without WALKER's specific written consent will be at CLIENT's sole risk.

PAYMENT FOR SERVICES

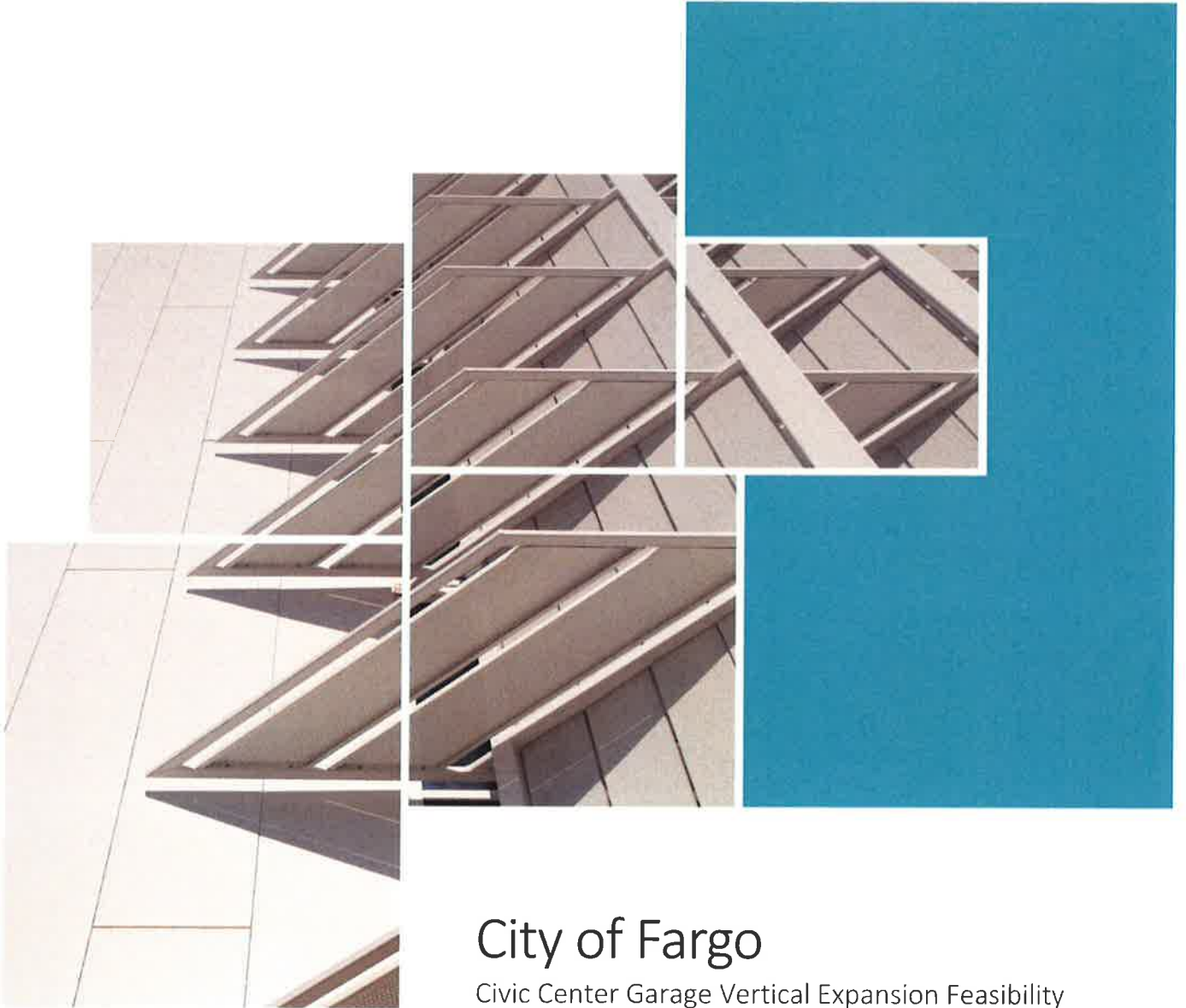
WALKER will submit monthly invoices based on work completed plus reimbursable expenses. Reimbursable expenses will be billed at 1.05 times the cost of travel and living expenses, purchase or rental of specialized equipment, photographs and renderings, document reproduction, postage and delivery costs, additional service consultants, and other project related expenses. Payment is due upon receipt of invoice. If for any reason the CLIENT does not pay WALKER within thirty (30) days of date of invoice, WALKER may, at its option, suspend or withhold services. The CLIENT agrees to pay WALKER a monthly late charge of one- and one-half percent (1½%) per month of any unpaid balance of the invoice plus attorney's fees and other costs incurred to collect the unpaid sum.

STANDARD OF CARE

WALKER will perform the services in accordance with generally accepted standards of the profession using applicable building codes in effect at time of execution of this Agreement. WALKER's liability caused by its acts, errors or omissions shall be limited to \$1,000,000.

PERIOD OF SERVICE

In the event that no contract administration phase services are to be provided by WALKER, services shall be complete the earlier of (1) the date when final documents are accepted by the CLIENT or (2) thirty days after final documents are delivered to the CLIENT. If contract administration phase services are provided by WALKER, services shall be complete upon the earlier of (1) the time of approval by WALKER of final payment to the contractor or (2) thirty (30) days after completion of the work designed by WALKER.



City of Fargo

Civic Center Garage Vertical Expansion Feasibility Study

April 5, 2021

Prepared for: James Gilmour



WALKER
CONSULTANTS



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Executive Summary

We understand that the City of Fargo is considering additional parking to support future downtown Fargo office parking demand. As identified in previous October 5, 2015 City of Fargo Downtown Parking Ramp Site Evaluation, a possible parking expansion for Civic Center garage may be considered based on strengths of Broadway and 2nd Avenue proximity, interior elevator service, and possible original construction designed for future structural loading capacity.

A structural assessment was performed to determine the feasibility of constructing a one or two-level vertical parking expansion to the existing structure. One typical interior column located at Grid B/7 and one typical perimeter column located at Grid C/7 were selected for structural evaluation.



Additionally, the egress pathways and accessibility of the new building alteration was reviewed. Based on the existing conditions and limitations the proposed parking garage vertical expansion configuration matching the current layout was considered such that exit discharge capacity and discharge travel distance will remain the same. Such conditions will meet the current building code requirements. Accessibility for the building alteration, however, will require additional pedestrian ramping for the path for travel from the elevator to primary functional areas.

The study confirms constructing a one-level parking expansion upon the existing 1984 cast-in-place post tensioned structure appears feasible utilizing the existing foundation, base substructure, and pedestrian egress portals.

A one-level vertical addition constructed to the existing limits of the existing structure and providing for accessible access to the area of alteration will provide an additional net parking stall count of approximately 68 parking stalls. The construction cost for a single vertical level expansion constructed of cast-in-place post-tensioned concrete with approximate 25,000 square feet of building area with an anticipated project cost of \$2,800,000.00 including contingency and reasonable soft costs, in 2021 dollars.



Overview of Findings

The goal of this study is to identify the feasibility of constructing a one or two-level vertical parking area addition to the existing Civic Center garage structure located at 411 2nd Avenue North in downtown Fargo, North Dakota. Partial original construction documents for the parking structure were available consisting of architectural and structural disciplines of sheets A-4 through A-10 and structural S-1 through S-14, all dated May 1984.

The referenced structural documents did not include the project specifications, or the historic soils report, however, references were provided to assist in locating these documents and design assumptions were included for determining allowable foundation design capacities. The firm authoring the original geotechnical report is no longer in business and attempts to locate this document were not successful. The parking garage partial construction document did include references confirming the original design did contemplate a one-level future additional parking level.

The existing construction documents did not include construction documents for the immediately adjacent Radisson Hotel. This structure provides vertical support for the parking garage through combined structural elements providing vertical load support at foundation and superstructure levels of the garage and Radisson tower.

Figure 1. Map of Downtown Fargo





01 Structural Engineering



Structural Engineering

In the current analysis, Walker performed structural engineering analysis to determine the load carrying feasibility of constructing a vertical expansion to the existing structure. Typical interior and exterior building grid elements including foundations and vertical load carrying elements were reviewed for capacities vs. expected future loading.

A summary of the approximate loads calculated at the foundation along with their relative foundation capacities is depicted in the table below. Based on Walker’s limited review it appears the one level parking expansion is feasible, and the two-level parking expansion would require additional geotechnical review and investigation.

Figure 2. Column and Foundation demand capacity ratios:

| | Location: | | Demand to Capacity Ratios: | |
|--|---------------------------|----------------------------|----------------------------|-----------|
| | Interior Column Grid B/7: | Perimeter Column Grid C/7: | Grid B/7: | Grid C/7: |
| Estimated Foundation Service Load for As-Built Condition: | 598.5 kips | 344.4 kips | 0.71 | 0.72 |
| Estimated Foundation Service Load for One Level Parking Expansion: | 751.7 kips | 425.3 kips | 0.89 | 0.89 |
| Estimated Foundation Service Load for Two Level Parking Expansion: | 906.4 kips | 512.3 kips | 1.07 | 1.07 |
| Estimated Foundation Capacity: | 848.2 kips (1) | 477.1 kips (2) | | |

1. Capacity of 6'-0" Diameter Bell Bottom Drilled Pier with Allowable Bearing Capacity of 30 ksf.
2. Capacity of 4'-6" Diameter Bell Bottom Drilled Pier with Allowable Bearing Capacity of 30 ksf.

A geotechnical soil bearing capacity design update is beyond the limits of this preliminary feasibility study and historical geotechnical information could not be located. However, the original geotechnical report as conducted by Twin Cities Testing, Report # 53-1765 dated October 11, 1983, did provide geotechnical analysis design criteria within the construction documents. The following foundation support design capacity values were provided:

Strip Footings Design Capacities Net 3,000 p.s.f.

Drilled Pier Design Capacities Net 30,000 p.s.f.

For the use of this report Walker did have discussion with an independent geotechnical firm familiar with the downtown Fargo soils profile regarding the sites existing known soil properties. The existing foundation plans and design capacities were provided for geotechnical design review and comment. The following was noted:

The general geology in Fargo consists of a deep deposit of rather soft clay (Lake Agassiz clay) over hard glacial till at about 100 to 110 feet or so. It is likely that the drilled piers are supported on, or in the hard till. If the allowable geotechnical design capacities are requested to be increased additional borings could be drilled and additional

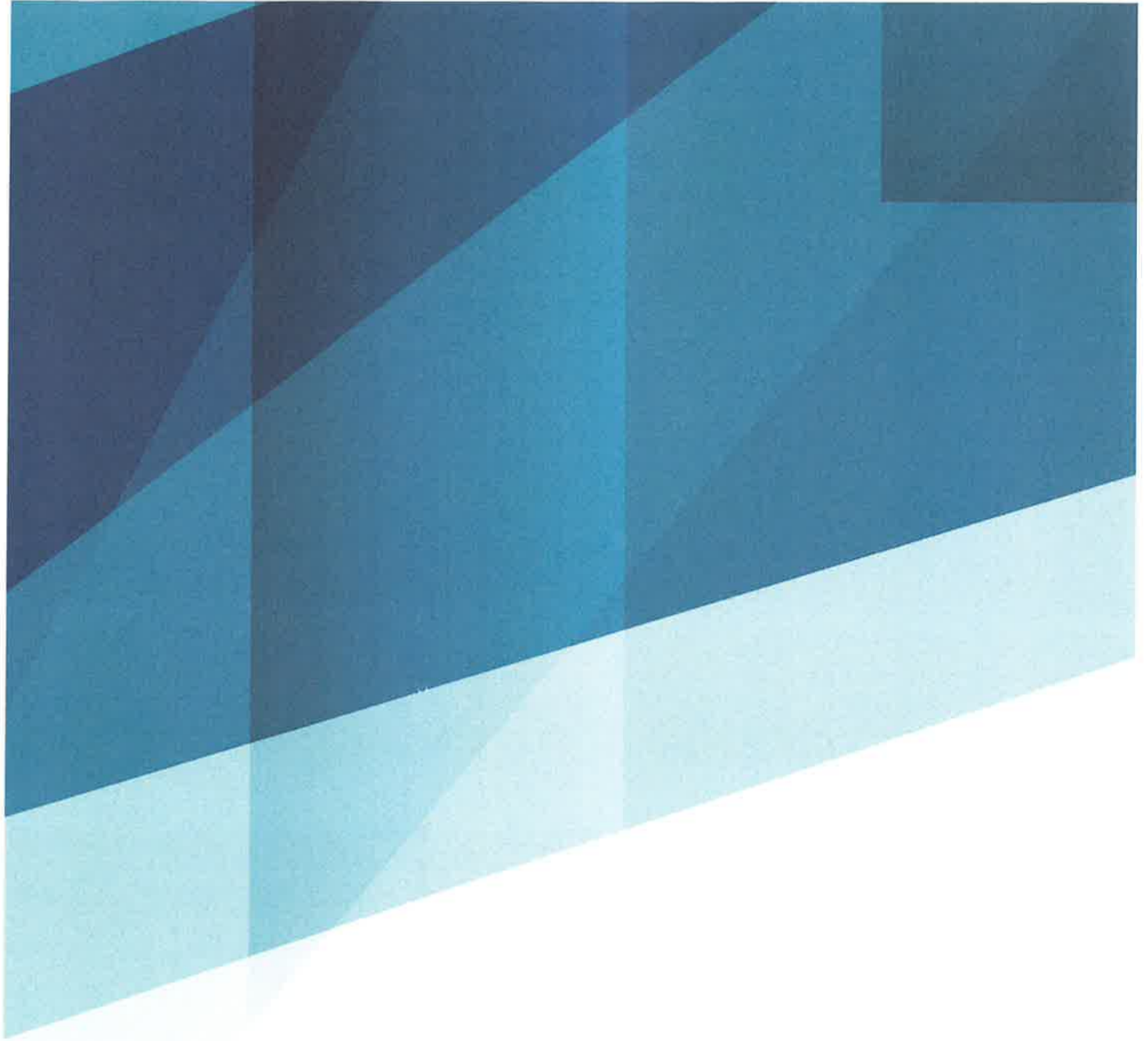


pressure meter testing would be required. An alternate structural engineering solution could involve installation of additional deep foundation structural supports.

The structural support of the building is therefore dependent on a foundation structure founded about 100' – 110' below surface. The two-level vertical additional foundation design capacity overload mitigation strategies are likely to have additional project cost. Additional cost for deep foundations is likely prohibitive, and additional soils testing may, or may not find additional existing capacities in the site soil profile. Should additional soils testing allow greater bearing capacities, these capacities may come with increased building settlement. Additional settlement risks may logically include the Radisson tower as portions of the Civic Center garage receive vertical support from this tower through shared structural systems.

Based on Walker's limited review, it appears the one-level parking expansion is feasible without increased soil capacities, or additional foundation systems, while the two-level parking expansion would require additional geotechnical review and investigation. For cost and practicality reasons pursuing a one-level expansion may be in the best interest of the City of Fargo.





02 Architectural Code Review



Architectural Code Review

An architectural code review was performed to identify the applicable Building Code requirements for the Civic Center garage and application of a vertical parking area addition. Primary to these efforts is the review of the applicable codes, building code changes from time of construction, height restrictions, accessibility, and emergency egress. The code review, although not as exhaustive and complete as for a full set of building construction documents, does provide general assurance of project program feasibility. The 2018 International Building Code Analysis Summary overview is based on the proposed addition of one or two additional tiers to the existing Fargo Civic Center Parking Garage.

Fargo Building Codes:

2018 International Building Code [Local Amendment](#)

- 2018 International Existing Building Code [Local Amendment](#)
- 2018 International Mechanical Code [Local Amendment](#)
- 2018 International Mechanical Code [Local Amendment](#)
- 2018 International Fire Code [Local Amendment](#)
- 2018 North Dakota State Plumbing Code (Uniform Plumbing Code - 2018)
- 2020 National Electrical Code
- 2020 Laws, Rules, and Wiring Standards of North Dakota
- 2006 NFPA #31
- 2010 Department of Justice ADA. Standards for State and Local Government Facilities: Title II

35.151 New Construction and Alterations. If the start date for construction is on or after March 15, 2012 all newly altered state and local government facilities must comply with the 2010 DOJ standards.

2.Exceptions for structural Impracticability

(iii) Disproportionality. Alterations made to provide an accessible path to the altered area will be deemed disproportionate to the overall alteration when the costs exceed 20% of the cost of the alteration to the primary function area... Does not apply for the proposed accessible ramp solution.

(b) Alternations: Each facility or part of a facility altered by, or for the use of a public entity in a manner that affects or could affect the usability of the facility or a part of the facility shall, to the maximum extent feasible, be altered in such a manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alterations are commenced after January 26, 1992.



(4) Path of travel. An alternation that affect or could affect the usability of or access to an area that contains a primary function shall be made so as to ensure to the maximum extent feasible the path of travel to the altered area is usable by individuals with disabilities. Accessible ramp meets with this provision.

2018 International Building Code (IBC)

Group S-2 Parking Garage (Ramp-Access Open Parking Garage)

Openness: The new addition will meet openness and openness distribution requirements similar to the existing garage.

Building Height: 4 (Existing Tiers) + 1 or two (New Tier) = 6 (Total Tiers) is within the 12-maximum limit by code.

Means of Egress: With the vertical (1 tier) extension of the 2 stair towers in similar configuration the garage meets the future exiting requirements.

Fire Separation: The separation of the parking garage with the new additional tier will remain the same as the existing garage.

Life Safety: The addition of 1 tier triggers a required elevator access. The current parking garage has access to the adjacent Radisson Lobby and elevator. From a level that is ½ level above the current 3rd tier and ½ level below the proposed addition. With the addition of a ½ level of stair access the Radisson elevator can continue to service the new proposed additional tier with Building Code official approval.

Occupant Load: The overall Floor area will increase by a factor of 1 or 2 additional tier. The occupant load will remain the same based on 200 SF/ Person.

Egress Sizing: The egress components sizing will remain the same as required for the existing parking garage.

Egress Based on Occupant Load: Based on matching the configuration of the existing garage, the existing 2 exits will meet the needs of the proposed addition.

Exit Access Travel Distance: Because the new proposed parking garage configuration matches the current layout, the exit access travel distance will remain the same.

Exit Discharge Width or Capacity: This will remain unchanged therefore acceptable.

Access to Public Way: This will remain the same.

Portable Fire Extinguishers: Additional fire extinguishers will be required in the similar location to the existing on the new tier per International Fire Code & NFPA 10

Elevator Standby Power: The existing elevators in the Radisson are required to comply with emergency operation.

Door Swing: All new egress doors are required to swing in the direction of egress.



Handrails: Based on existing conditions and limitations the new handrails for the addition area will need to comply with current code requirements, per code official approval.

Exit Signs: Exit signs are required at new egress access areas.

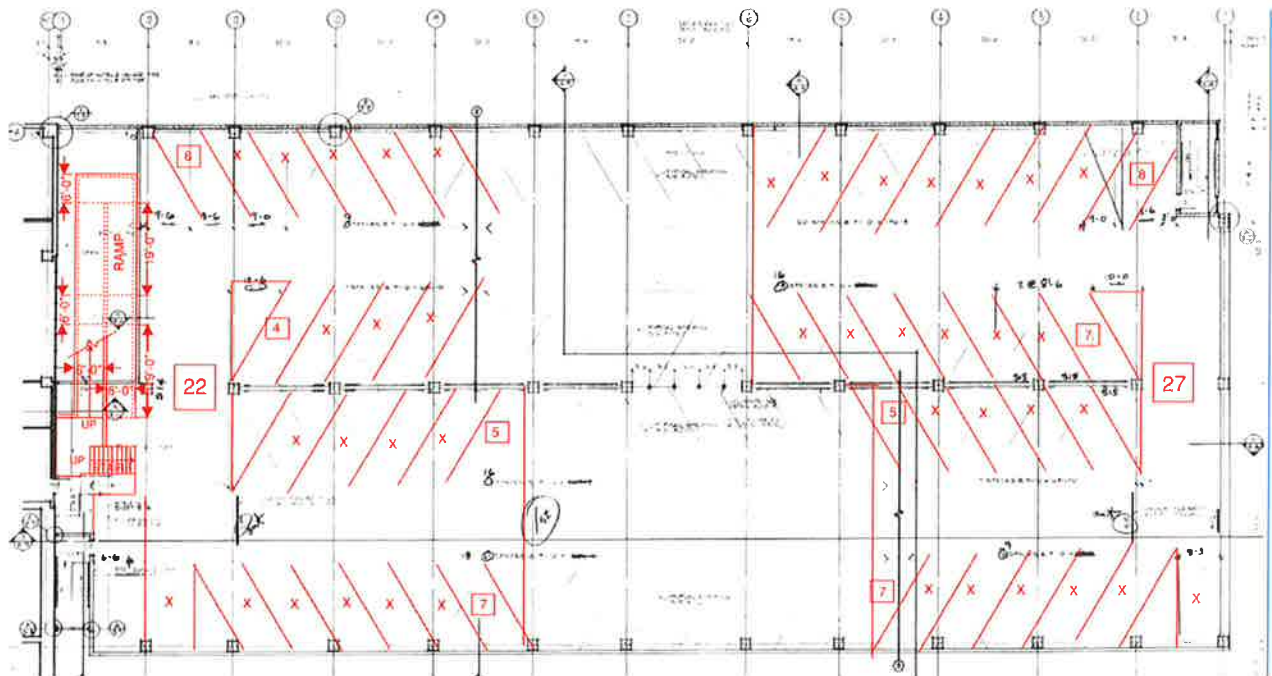
Elevator to Accommodate Ambulance Stretcher: The Radisson elevators currently should meet the stretcher requirement. Modification otherwise would be disproportionate.

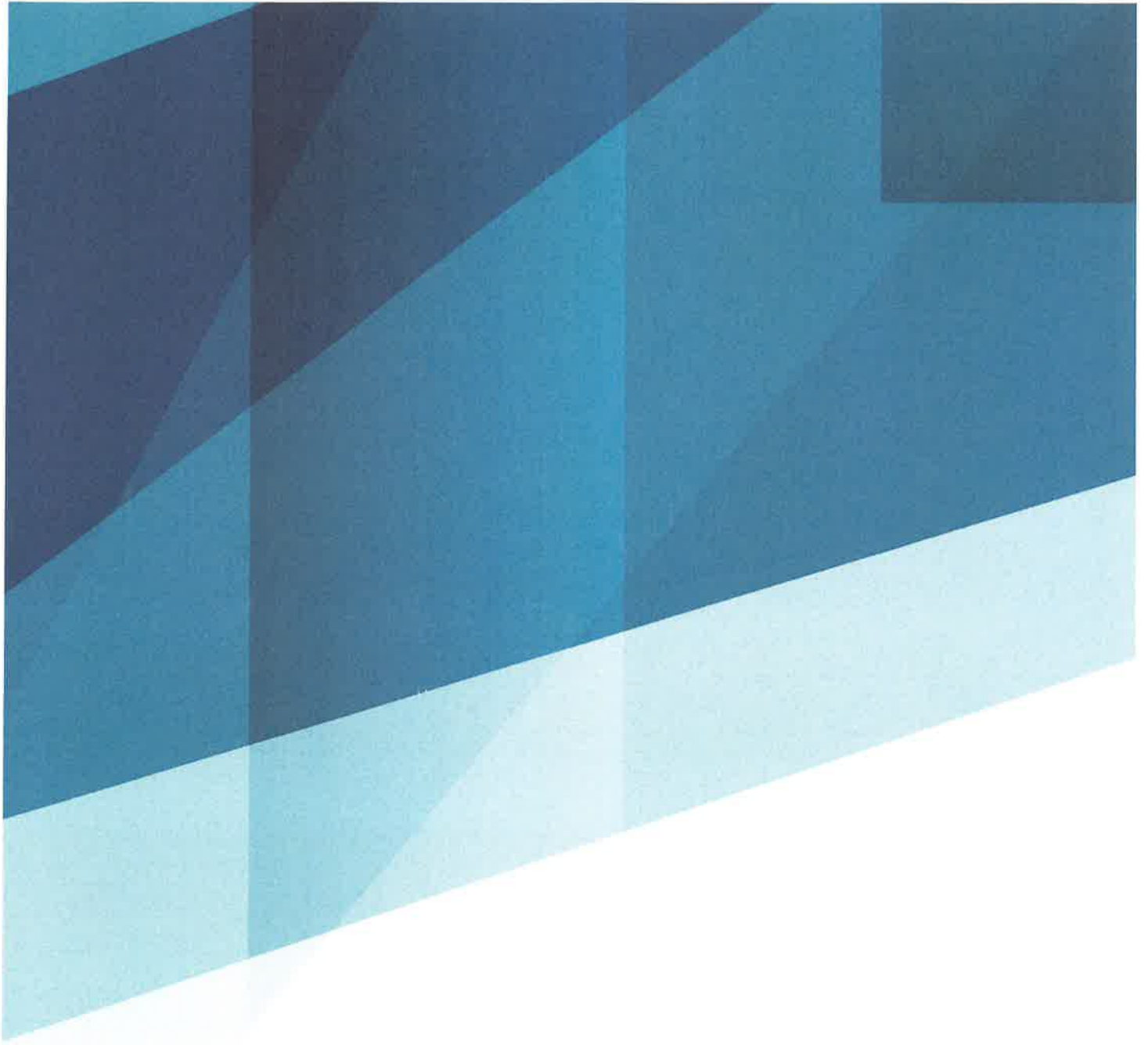
The conclusion of the architectural code review is the proposed additional vertical expansion of the existing parking garage does have the ability to reasonably meet the code requirements of the City of Fargo and ADA.

The practical design solution of the most restrictive interpretation of the code review is providing accessible access to the altered parking tier (top tier expansion). The Department of Justice requirement is to provide elevator access to this primary use area through the application of a pedestrian ramp from Radisson lobby Level 3 to the Civic Center garage vertical expansion. The ramp shall provide access to the altered building areas but will not be required to provide access to the existing fourth tier of the parking structure.

The limits of the pedestrian ramp connecting to the existing top tier lobby access landing and a new convenience stair have been determined and sketched onto a building plan. See Figure 3 below.

Figure 3. Life Safety accessible elevator access pedestrian ramp:





03 Functional Design



Functional Design

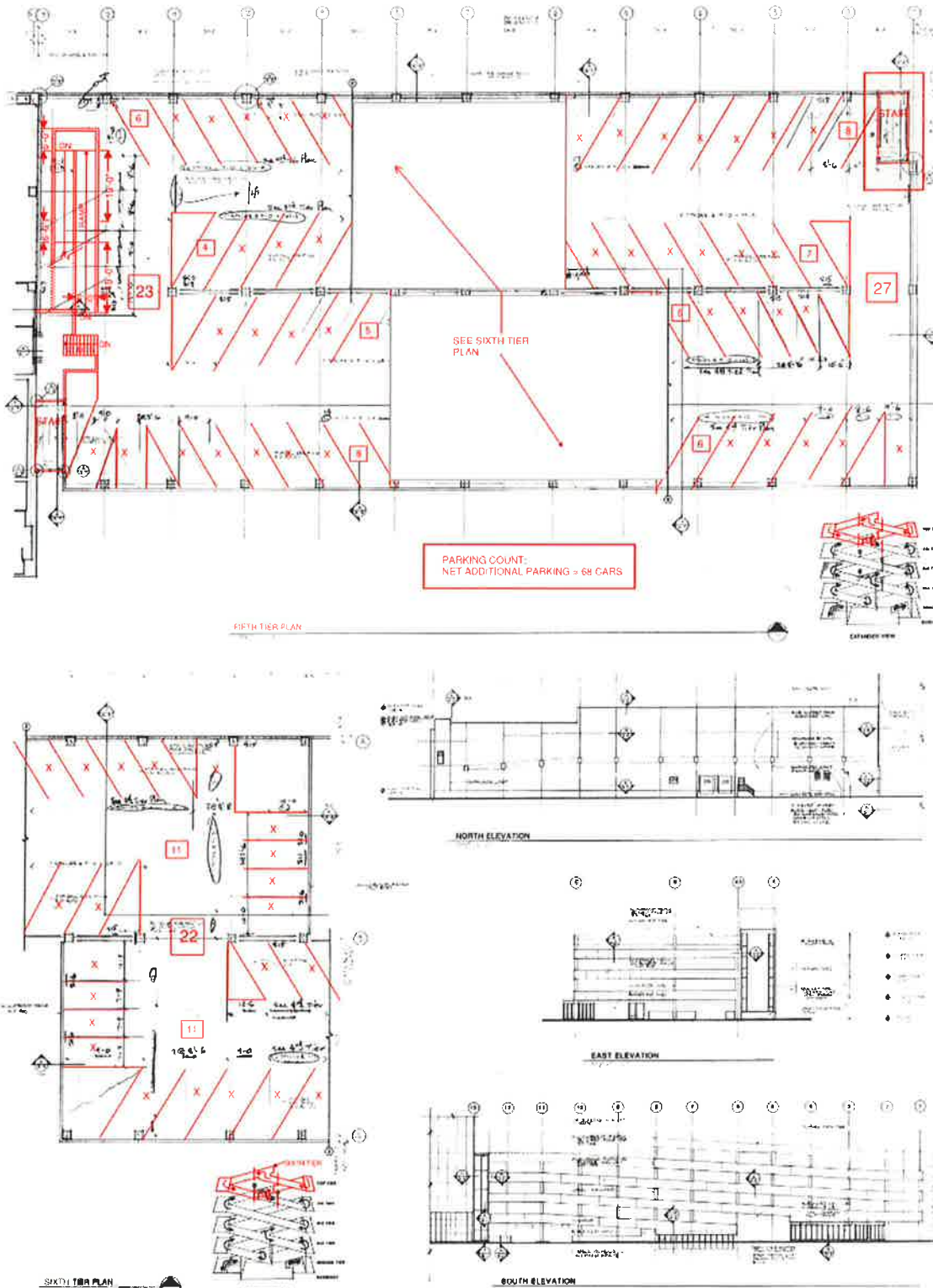
A feasibility level parking area design was developed to better identify the architectural code requirement impact on parking. A plan layout including the pedestrian access ramping, 5th and 6th Tier Plan are provided. The displayed design continues the existing traffic flow patterns and geometries for the most efficient layout. The parking area floor slabs are held back to accommodate the installation of the pedestrian ramp. For the purpose of this study, the single level vertical expansion and anticipated additional stall counts are depicted here.

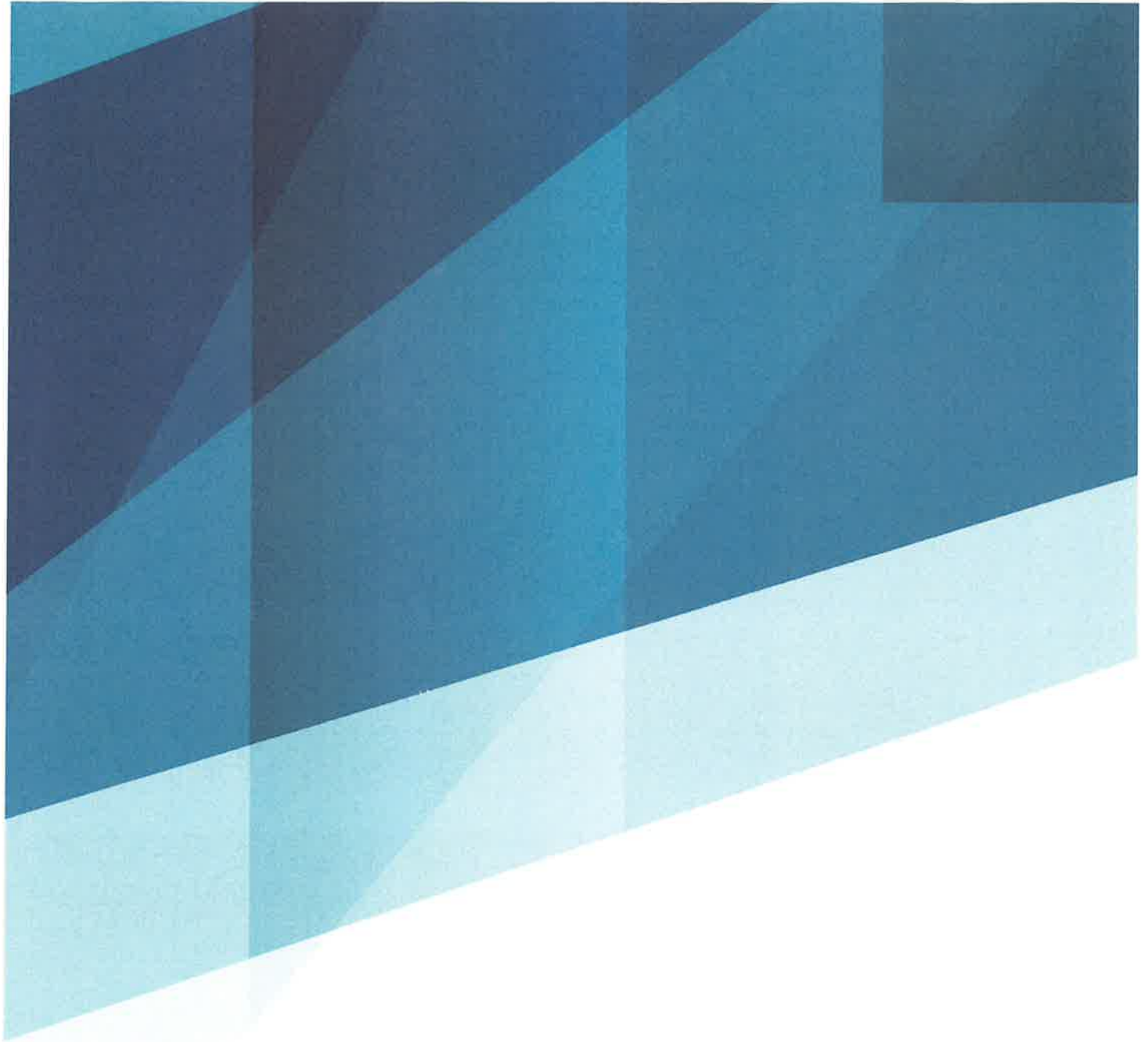
Net Additional parking stall counts for the expansion area:

| | |
|---------------------|-----------------------------------|
| One-Level Expansion | Net 68 additional parking stalls |
| Two-Level Expansion | Net 135 additional parking stalls |



Figure 4. Parking area 5th and 6th Tier Level plans:





04 Opinion of Probable Costs



Opinion of Probable Cost

As part of this engagement, Walker also was requested to provide an opinion of current cost to construct the parking area vertical expansion. To accomplish this task, we utilized our most recent parking garage construction costs based on a square footage basis including the information from the basis of design determined from this feasibility study.

We estimate the probable cost of construction will be a premium to standard costs of construction as the work is built upon an existing structure and all structure is elevated construction. Our estimated cost assumes similar architectural finishes to existing construction *without* refurbishment of the balance of the parking structure. Our cost estimate does include the accessible pedestrian ramp to the top tier, or additional tiers.

The cost communicated also do not include construction contingencies, or soft costs that can reasonably be estimated as an additional 20% to the construction cost presented.

Based on the finding of the parking expansion feasibility study we project a one-level vertical addition will have a probable cost of construction in 2021 dollars of \$2,385,000. Therefore, project cost including reasonable soft costs and contingencies estimated at 20% of construction = Project cost of \$2,862,000.

Figure 5. Construction Cost Data

| Construction Cost Data | | | | | | |
|------------------------|------------------------|---------------|---------------|----------|-----------------------|--------------|
| Scope | Estimated cost \$/sqft | add'n premium | Addition Area | # stalls | Total = \$/sqft* Area | Cost/Stall |
| One Level | \$73.65 | 130% | 24,910 | 68 | \$ 2,385,007.95 | \$ 35,073.65 |
| Two Level | \$73.65 | 125% | 49,820 | 135 | \$ 4,586,553.75 | \$ 33,974.47 |

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

(41)

Type: Federal Aid Transportation Project Applications

Location: Citywide

Date of Hearing: 11/8/2021

| | |
|-----------------|----------------------|
| Routing | Date |
| City Commission | <u>11/15/2021</u> |
| PWPEC File | <u>X</u> |
| Project File | <u>Jeremy Gorden</u> |

The Committee reviewed a communication from Transportation Division Engineer, Jeremy Gorden, regarding Federal Aid Transportation Project Applications.

The NDDOT is currently soliciting project applications for the following programs:

Urban Grant Program – Projects located in Downtown only.

Urban Road Program & Urban Regional Program – The Urban Road Program can be used on any arterial or collector roadways, and can include shared use path projects and transit capital; the Urban Regional Program is for projects located on US Hwy 10, 81 and Business 29.

Transportation Alternative Program – Projects that provide alternative means of transportation such as path projects, safe route to school projects, and crosswalk improvements.

Highway Safety Improvement Program – Core program with the purpose of achieving a significant reduction in fatalities and serious injuries.

The current federal aid transportation projects scheduled for the North Dakota portion of the FM metro region for the years 2022 to 2025 are attached in Appendix A. Notable projects include 32nd Avenue South from 32nd Street to University Drive, 52nd Avenue South from 63rd Street to Sheyenne Street, 2nd Street Pedestrian Bridge, Transit Capital for bus purchases, Bison Village Shared Use Path, and Main Avenue between University Drive and 25th Street.

Engineering, Public Works, and Planning staff met to discuss the applications along with suitable projects for each submittal. The following is our list of recommended projects to submit applications requesting funding for each program for year 2025 or 2026. Please refer to Appendix B for the map and a further detailed list of projects.

Urban Grant Program

None identified for this solicitation.

Urban Road Program

N Broadway Bridge Replacement over Red River
We are still planning a Jurisdictional meeting but want to have a place holder for the Project.
(Project will need to be amended into 2045 Long Range Transportation Plan)

\$4.5M total, COF Federal request \$1.8M

45th Street Concrete Pavement Rehab – I-94 to 16th Ave N
(Project consistent with 2045 Long Range Transportation Program focusing on repair/maintenance of existing infrastructure)

\$10.8M total, COF Federal request \$8.64M

40th Avenue S Shared Use Path Bridge over the Red River

\$4M total, COF Federal request \$1.6M

Project identified in 2016 Pedestrian & Bicycle Plan. Also Consistent with Go2030 Guiding Principles and Key Initiatives in Health, creating City-Wide Trail Loop and creating year round recreational activities, and in Transportation, improving bicycle and pedestrian connectivity by identification of gaps in the local and regional system, and also increasing transportation linkages across the Red River.

Shared Use Path Project for 3 locations – \$1.46M total, COF Federal request \$1.186M
Drain 27 near Deer Creek,
Along River Dr from Harwood Dr to 40th Ave S,
Drain 53 from 64th Ave S to 73rd Ave S

All locations identified in 2016 Pedestrian & Bicycle Plan. Also Consistent with Go2030 Guiding Principles and Key Initiatives in Health, creating City-Wide Trail Loop and creating year round recreational activities, and in Transportation, improving bicycle and pedestrian connectivity by identification of gaps in the local and regional system, and also increasing transportation linkages across the Red River.

Transit Capital Purchase \$1.25M total, COF Federal request \$1M

Urban Regional Program

None identified for this solicitation.

Transportation Alternative Program

Shared Use Path Drain Crossing between Oakcreek \$300,000 total, COF Federal request \$240,000
And Timberline neighborhoods to connect Milwaukee
Trail to Drain 53 Trail System

Project will need to be amended into 2045 Long Range Transportation Plan. Also consistent with Go2030 Guiding Principles and Key Initiatives in Health, creating City-Wide Trail Loop and creating year round recreational activities, and in Transportation, improving bicycle and pedestrian connectivity by identification of gaps in the local and regional system.

Highway Safety Improvement Program

Left turn offset improvements – Intersection of N \$550,000 total, COF Federal request \$440,000
University Drive & 19th Ave N, and Intersection of 45th
Street & 23rd Ave S
(Project will need to be amended into 2045 Long
Range Transportation Plan)

Auxiliary Lane Addition - 45th Street Southbound \$400,000 total, COF Federal request \$320,000
19th Ave S to I-94 Bridge
(Project will need to be amended into 2045 Long
Range Transportation Plan)

On a motion by Nicole Crutchfield, seconded by Ben Dow, the Committee voted to recommend approval of the projects listed above as the City of Fargo’s priorities for projects to apply for Federal Highway Administration funds.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the projects listed above as the City of Fargo’s priorities for projects to apply for Federal Highway Administration funds.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: _____

| | <u>Yes</u> | <u>No</u> |
|--|------------|-----------|
| Developer meets City policy for payment of delinquent specials | _____ | _____ |
| Agreement for payment of specials required of developer | N/A | _____ |
| Letter of Credit required (per policy approved 5-28-13) | N/A | _____ |

COMMITTEE

Tim Mahoney, Mayor
Nicole Crutchfield, Director of Planning
Steve Dirksen, Fire Chief
Bruce Grubb, City Administrator
Ben Dow, Director of Operations
Steve Sprague, City Auditor
Brenda Derrig, City Engineer
Kent Costin, Finance Director

| Present | Yes | No | Unanimous |
|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |

ATTEST:



Brenda E. Derrig, P.E.
City Engineer

Memorandum

To: Members of PWPEC

From: Jeremy M. Gorden, PE, PTOE
 Division Engineer - Transportation

Date: November 3, 2021

Subject: Recommendations for Federal Aid Transportation Project Applications

The NDDOT is currently soliciting project applications for the following programs:

- Urban Grant Program
- Urban Road Program & Urban Regional Program
- Transportation Alternative Program
- Highway Safety Improvement Program

The Urban Grant Program is for projects located within the downtown area only; the Urban Road Program can be used on any arterial or collector roadways and can include shared use path projects and transit capital; the Urban Regional Program is for projects located on US Hwy 10, 81 and Business 29; the Transportation Alternative Program is for projects that provide alternative means of transportation such as path projects, safe route to school projects, and crosswalk improvements; the Highway Safety Improvement Program is a core program with the purpose of achieving a significant reduction in fatalities and serious injuries.

The current federal aid transportation projects scheduled for the North Dakota portion of the FM Metro Region for the years 2022 to 2025 are attached in Appendix A. Notable projects include 32nd Avenue South from 32nd Street to University Drive, 52nd Avenue South from 63rd Street to Sheyenne Street, 2nd Street Pedestrian Bridge, Transit Capital for bus purchases, Bison Village Shared Use Path, and Main Avenue between University Drive and 25th Street.

After staff from Engineering, Public Works, and Planning visited about our applications, the following is our list of recommended projects to submit applications requesting funding for each program for year 2025 or 2026. Please refer to Appendix B for map and further detailed list of projects.

Urban Grant Program

None identified for this solicitation.

Urban Road Program

| | |
|---|---|
| N Broadway Bridge Replacement over Red River | \$4.5M total, COF Federal request \$1.8M |
| 45 th Street Concrete Pavement Rehab – I-94 to 16 th Ave N | \$10.8M total, COF Federal request \$8.64M |
| 40 th Avenue S Shared Use Path Bridge over the Red River | \$4M total, COF Federal request \$1.6M |
| Shared Use Path Project for 3 locations – In Drain 27 near Deer Creek, along River Drive from Harwood Drive to 40 th Ave S, and Drain 53 from 64 th Ave S to 73 rd Ave S | \$1.46M total, COF Federal request \$1.186M |
| Transit Capital Purchase | \$1.25M total, COF Federal request \$1M |

Urban Regional Program

None identified for this solicitation.

Transportation Alternative Program

Shared Use Path Drain Crossing between Oakcreek and
Timberline neighborhoods to connect Milwaukee Trail
to Drain 53 Trail System

\$300,000 total, COF Federal request \$240,000

Highway Safety Improvement Program

Left turn offset improvements – Intersection of N
University Drive & 19th Ave N, and Intersection of 45th
Street & 23rd Ave S

\$550,000 total, COF Federal request \$440,000

Auxiliary Lane Addition - 45th Street Southbound
19th Ave S to I-94 Bridge

\$400,000 total, COF Federal request \$320,000

Recommended Motion:

Approve project applications as outlined by 'Project Submittal List' as the City of Fargo's priorities for projects to apply for Federal Highway Administration funds, working through both the FM Metro Council of Governments and the North Dakota Department of Transportation.

Attachments

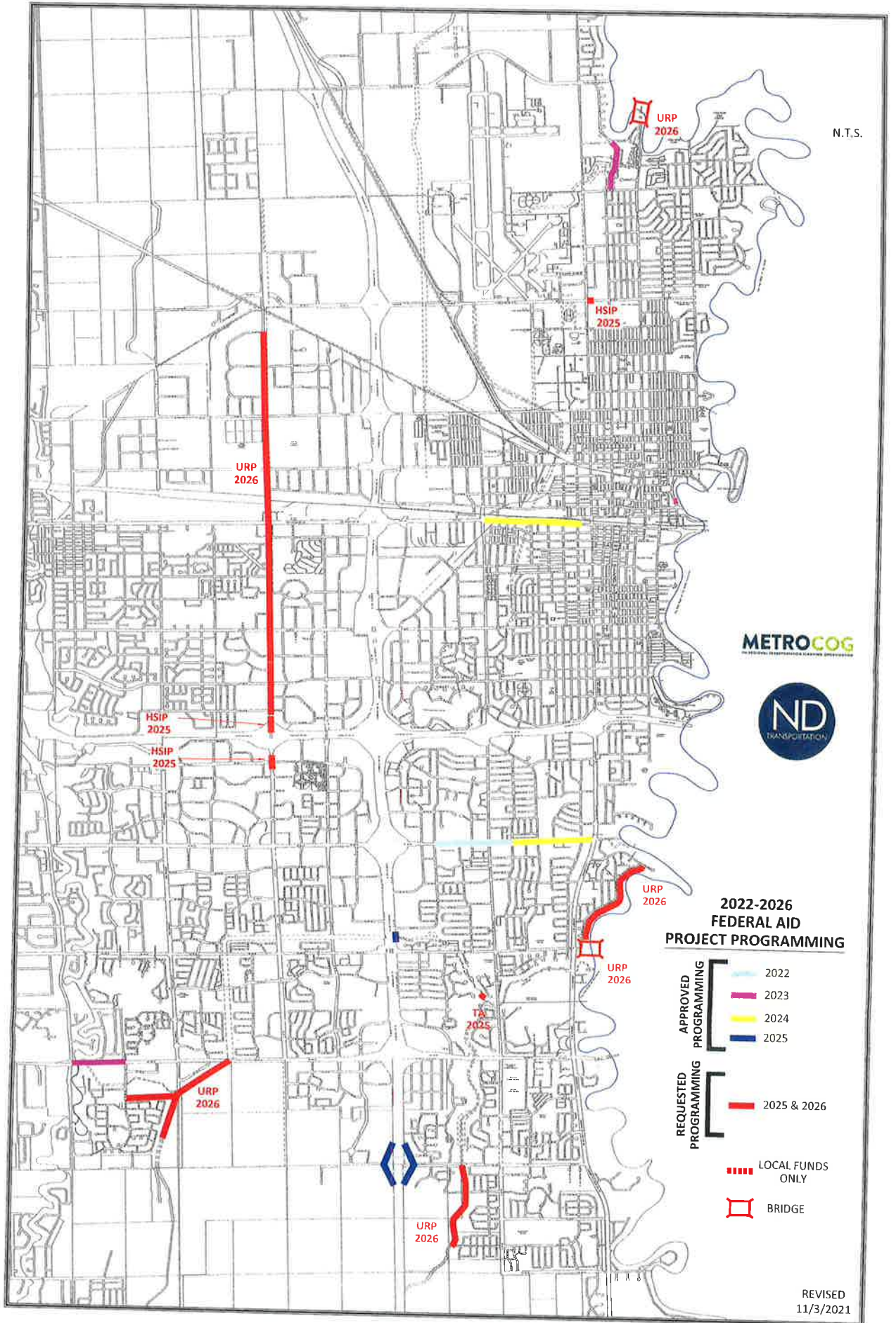
Appendix A

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
2022-2025 DRAFT URBAN PROGRAM
FMCOG - OCTOBER 2021**

| Fiscal Year | Program | Location | Type of Work | Total Cost | Federal Share | State Share | Local Share |
|-------------|---------------------------------------|---|---|--------------|---------------------------------------|-------------|-------------|
| 2022 | Urban Roads/CVD | Fargo 32nd Ave S (32nd-25th St) | Reconstruction | \$10,400,000 | \$4,700,000 Urban Rds + \$808,620 CVD | \$0 | \$4,891,380 |
| 2022 | HSIP | I-94 (Horace Rd to 42nd St Separation) EB/WB | Cable Guardrail | \$2,036,000 | \$1,832,000 | \$204,000 | \$0 |
| 2022 | HSIP | I-94 (42nd St Separation to I-29) EB/WB | Median Barrier | \$2,044,000 | \$1,840,000 | \$204,000 | \$0 |
| 2022 | Pending Availability of Federal Funds | Fargo 52nd Ave S (63rd St-Sheyenne) | Reconstruction | \$7,000,000 | \$5,000,000 | \$0 | \$2,000,000 |
| 2022 | Pending Availability of Federal Funds | Fargo Transit Capital | Transit Capital | \$1,250,000 | \$1,000,000 | \$0 | \$250,000 |
| 2023 | Urban Roads | Fargo 42nd St/I-94 Separation | Structure Rehab | \$275,680 | \$223,108 | \$0 | \$52,572 |
| 2023 | UGP | Fargo 2nd St Pedestrian/Bicycle Bridge | Bridge, shared use path, lighting | \$3,400,000 | \$2,400,000 | \$0 | \$1,000,000 |
| 2023 | Pending Availability of Federal Funds | Fargo Main Ave (University - 25th St) | Reconstruction | \$15,412,522 | \$8,369,948 | \$1,226,416 | \$5,816,158 |
| 2023 | Pending Availability of Federal Funds | Fargo Transit Capital | Transit Capital | \$1,250,000 | \$1,000,000 | \$0 | \$250,000 |
| 2024 | Regional | West Fargo Main Ave near Sheyenne River | Slide Repair | \$5,000,000 | \$4,046,500 | \$453,500 | \$500,000 |
| 2024 | Pending Availability of Federal Funds | Fargo 32nd Ave S (25th St - University Dr) | Reconstruction | \$9,600,000 | \$7,680,000 | \$0 | \$1,920,000 |
| 2025 | Urban Roads | West Fargo 9th St E (Main Ave to 12th Ave N) | Reconstruction | \$9,400,000 | \$7,520,000 | \$0 | \$1,880,000 |
| 2025 | HSIP | West Fargo 9th St/Veterans Blvd (4th Ave E to 40th Ave E) | LPI, NTOR, APS | \$500,000 | \$450,000 | \$0 | \$50,000 |
| 2025 | Pending Availability of Federal Funds | Fargo 12th Ave N & BNRR Bridge (1 E of I-29) | Structure Items, Structural Steel Zone Painting | \$644,606 | \$521,680 | \$58,465 | \$64,461 |
| 2025 | Pending Availability of Federal Funds | Fargo 36th St at Rose Coulee (2 S of I-94) | Deck overlay, Rail Retrofit, Reset approach guardrail | \$380,000 | \$307,534 | \$0 | \$72,466 |

Appendix B

| PROJECT SUBMITTAL LIST | | | | | | | | | | |
|---|---------------------------------|--|---|--------------------------------------|--|---|--------------|-------|--------------|-------------------|
| Entity: City of Fargo Date: November 1, 2021 | | | Contact Person: Jeremy Gorden Phone Number: 241-1529 | | | Revision: October 2013 If you have questions with filling out the list, please contact Stacy Hanson at 701-328-4469 | | | | |
| FISCAL YEAR | FUNDING CATEGORY ⁽¹⁾ | FUNCTIONAL CLASSIFICATION ⁽²⁾ | INVESTMENT STRATEGY ⁽³⁾ | TYPE OF WORK ⁽⁴⁾ | PROJECT LOCATION | PROJECT CONSTRUCTION COST | | | | |
| | | | | | | TOTAL | FEDERAL | STATE | LOCAL | NON-PARTICIPATING |
| 2026 | URP | Minor Arterial | R | Bridge Reconstruction | Broadway at Red River (3.7M 2020) | \$ 4,500,000 | \$ 1,800,000 | | \$ 450,000 | 2.25 Clay Co |
| 2026 | URP | Principal Arterial | PM | CPR | 45th St - 16th Ave N to I-94 North Ramp (3.6 miles) | \$ 10,800,000 | \$ 8,640,000 | | \$ 2,160,000 | |
| 2026 | URP | Minor Arterial | N/R | Shared Use Path Bridge | 40th Ave S over Red River (Bluestern connection) | \$ 2,000,000 | \$ 1,600,000 | \$ - | \$ 400,000 | 2M coming from MN |
| 2026 | URP | | New | Shared Use Path | Drain 27 - 52nd Ave S to 63rd Ave S (700k); River Drive S - Harwood to 40th Ave S (450k); Drain 52-64th Ave S to 73rd Ave S (910k) | \$ 1,460,000 | \$ 1,168,000 | | \$ 292,000 | |
| 2026 | URP | | New | Transit Capital | Purchase of new Buses | 1250000 | \$ 1,000,000 | | \$ 250,000 | |
| 2025 | TAP | | New | Shared Use Path Box Culvert Crossing | Drain 27 - Oak Creek to Timberline area | \$ 300,000 | \$ 240,000 | | \$ 60,000 | |
| 2025 | HSIP | Principal Arterial | MIR | Concrete Pavement Rehab | Removing negative left turn offsets at 19th Ave N & University Drive, and 45th Street S & 23rd Ave S | \$ 550,000 | \$ 440,000 | | \$ 110,000 | |
| 2025 | HSIP | Principal Arterial | N/R | Concrete Pavement Widening | Auxiliary Lane Addition - Southbound 45th St between 19th Ave S & I-94 bridge | \$ 400,000 | \$ 320,000 | | \$ 80,000 | |

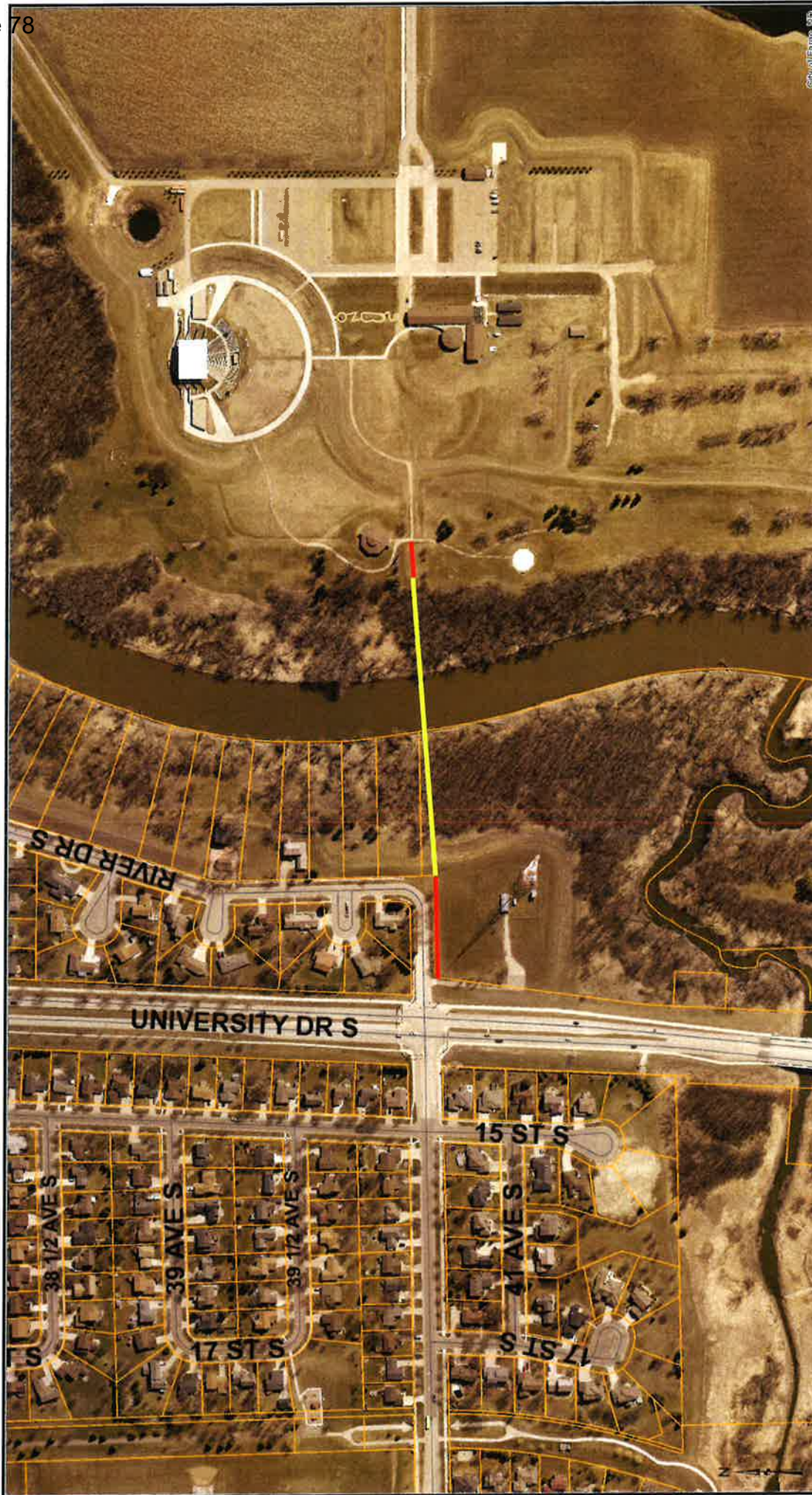




These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

| | |
|---|-------------------|
| <h2>N Broadway Bridge</h2> | |
| 1:9,028 | 11/3/2021 1:32 PM |
| <small>This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.</small> | |





City of Fargo, ND



40th Ave S Bridge over Red River

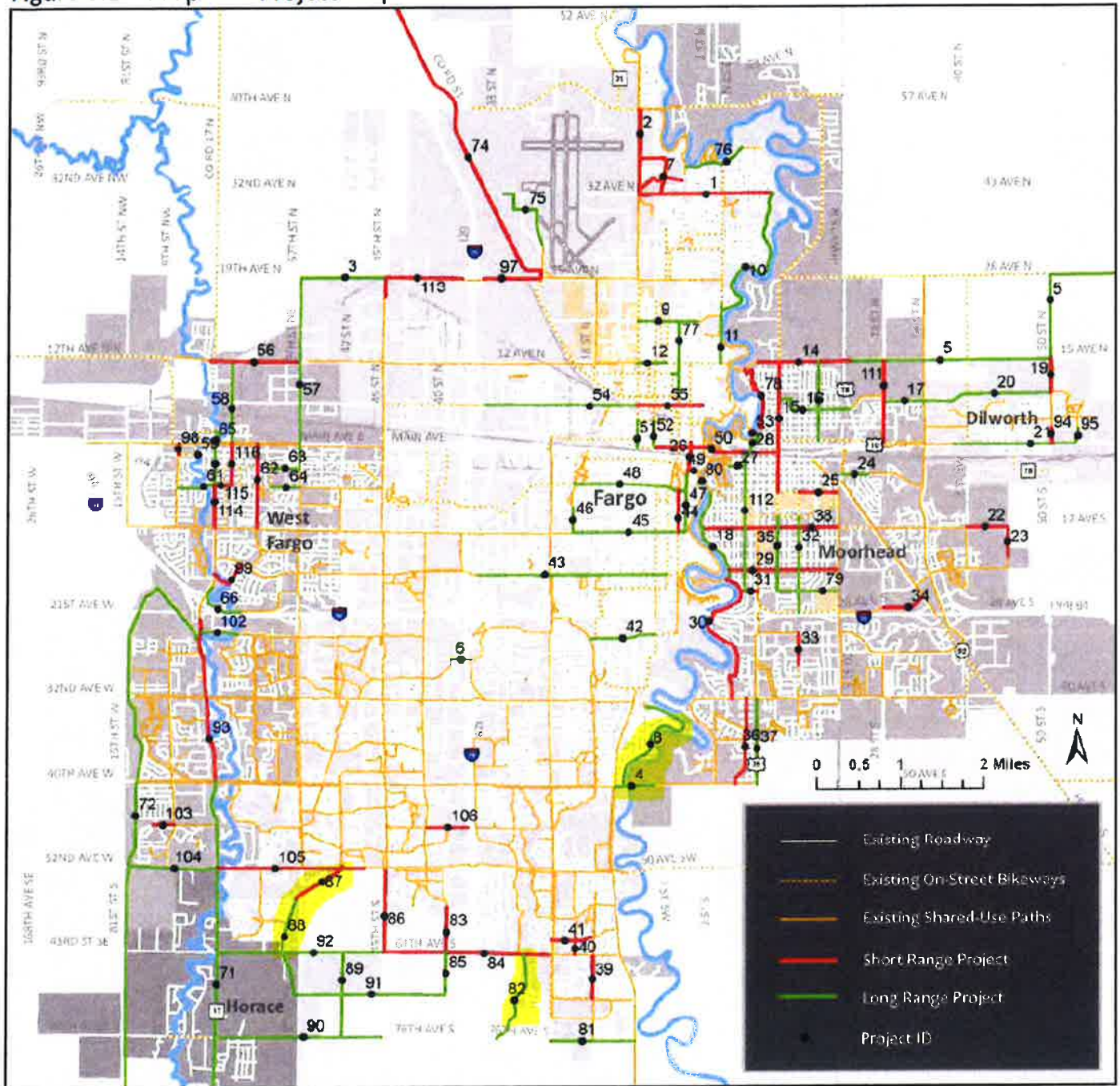
1:4,514

11/17/2020 12:36:24 PM

This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.

These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

Figure 6.1 – Proposed Project Map – Urban





www.fargo.gov



Drain 27/Deer Creek Path

11/3/2021 1:24 PM

1.9.028

This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.

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City of Fargo, ND

These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

River Drive Path

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Drain 53 Path

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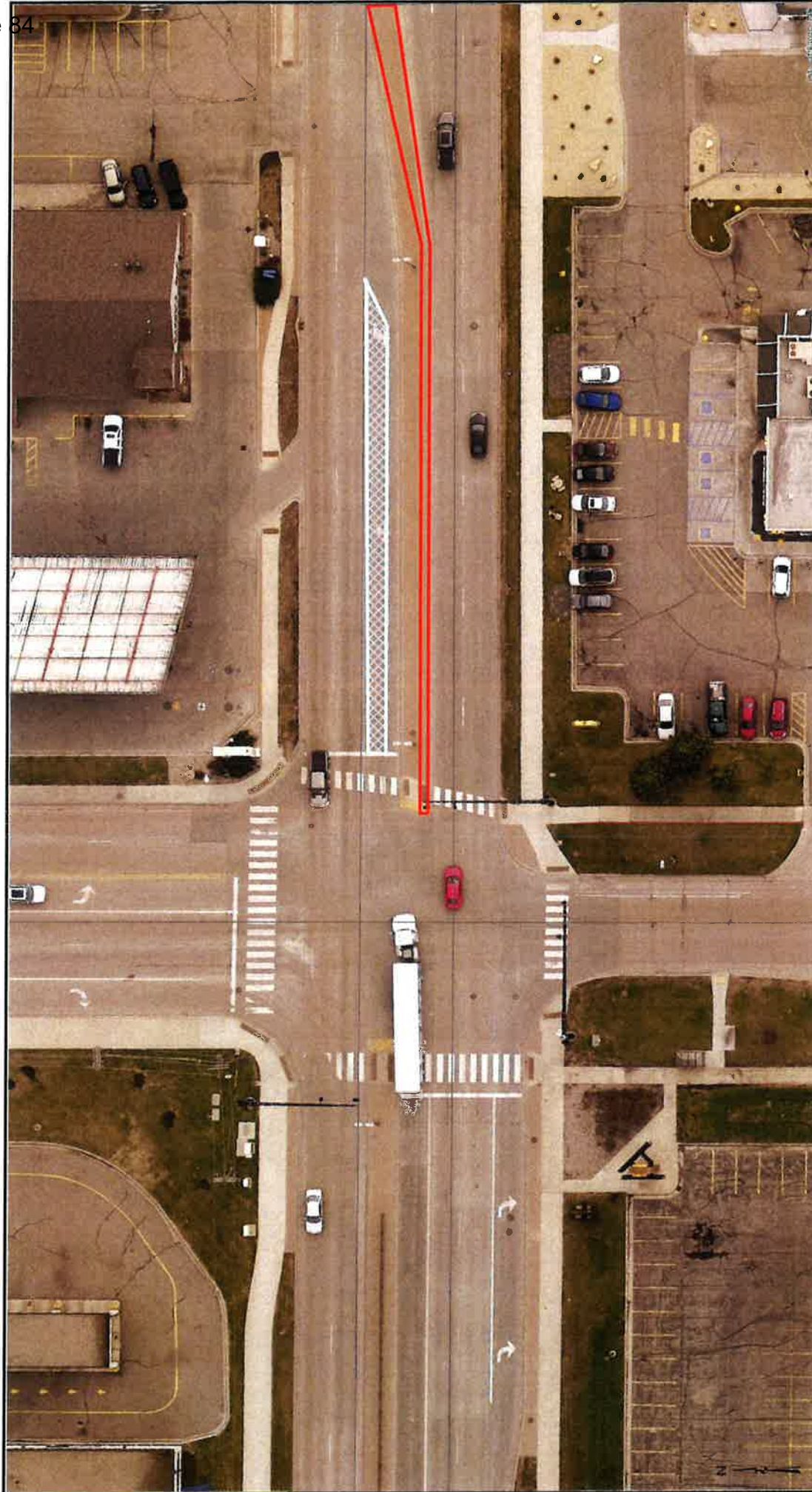
Oakcreek/Timberline Path

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11/3/2021 1:22 PM

This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.





City of Fargo



Intersection of 19th Ave N & University Drive

11/3/2021 2:49 PM

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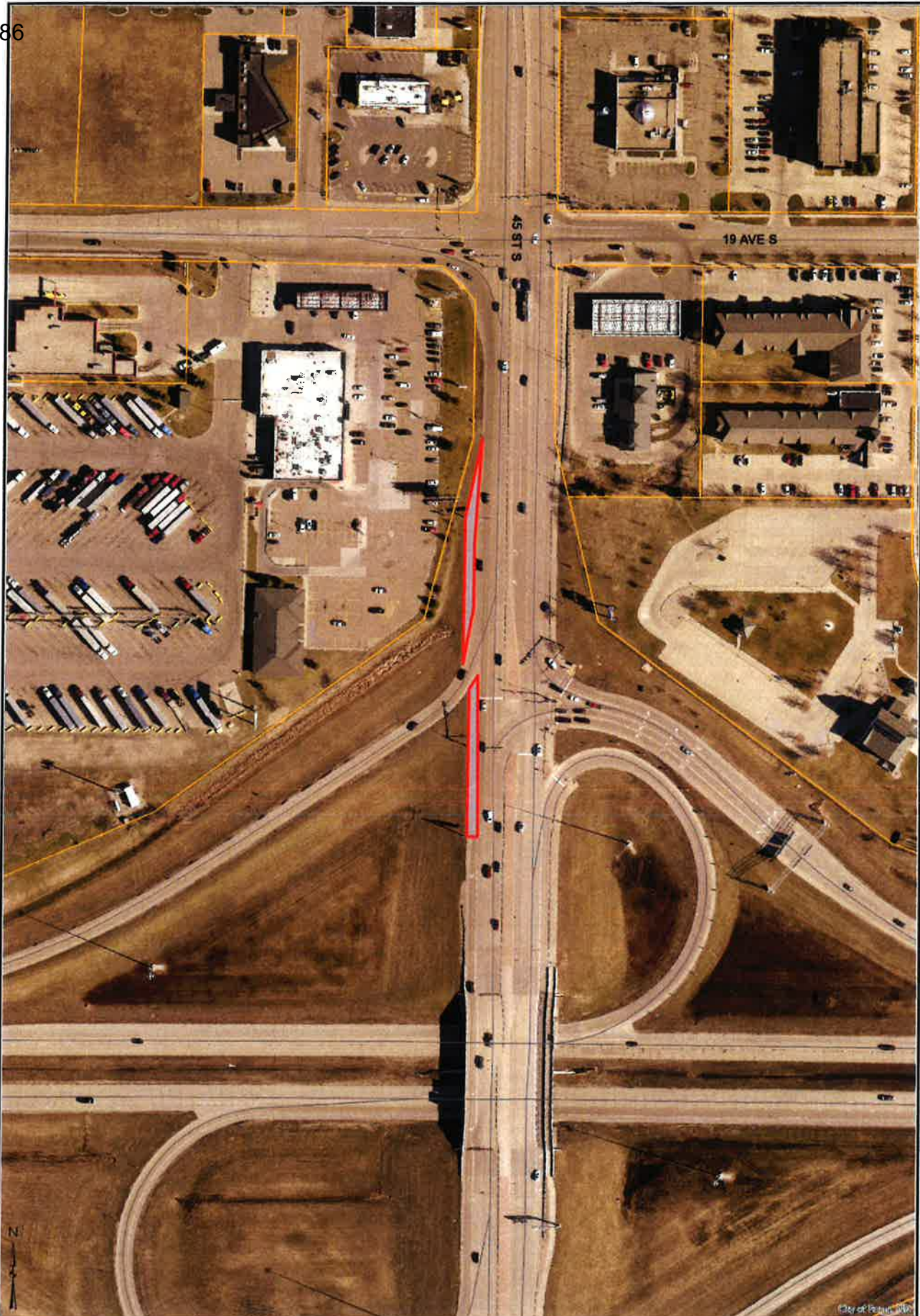
Intersection of 45th St and 23rd Ave S

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This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.





These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

Auxillary Lane 45th St at I-94

1:2,257

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This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.



OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

42

ORDINANCE NO. _____

AN ORDINANCE ENACTING SECTIONS 5-0400 THROUGH 5-0411
OF ARTICLE 5-04 OF CHAPTER 5 OF THE FARGO MUNICIPAL
CODE RELATING TO THE CITY OF FARGO POLICE ADVISORY
AND OVERSIGHT BOARD

WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Code; and,

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City shall have the right to implement home rule powers by ordinance; and,

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such purposes; and,

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance;

NOW, THEREFORE,

Be It Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Enactment.

Section 5-0401 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

Sec. 5-0401. Establishment of the Fargo Police Advisory and Oversight Board.

The Fargo Police Advisory and Oversight Board is hereby established.

Section 2. Enactment.

Section 5-0402 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

5-0402. Purpose of the Fargo Police Advisory and Oversight Board.

The purpose of the Fargo Police Advisory and Oversight Board (hereafter "Board") is to

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 advise and assist the City of Fargo and the Fargo Police Department (hereafter
2 “Department”) in policy development specific to police-community relations, education,
3 outreach, and other areas of concern to the community. The Board will be tasked with
4 providing review and input in the following areas of community concern:

- 5 1. Data evaluation relative to community issues and/or concerns, such as
6 traffic stop and use of force (UOF) demographics.;
- 7 2. Technology impacts on the community, such as body-worn cameras, facial
8 recognition;
- 9 3. Review of completed personnel investigations in accordance with section
10 5-0409, and/or use of force encounters;
- 11 4. Police response to mental health and community impacts;
- 12 5. Community training/education topics;
- 13 6. Department training topics that would benefit police-community
14 relationships; and
- 15 7. Other items identified by the Board and approved by the Chief of Police and
16 Board Chair.

17 The Board will work to create a dialogue between community representatives and the
18 Department. The Board will work to improve relations between law enforcement and the
19 community, assist with recruitment of diverse candidates, and provide community
20 perspective on policy, programs, and priorities of the Department.

21 Section 3. Enactment.

22 Section 5-0403 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby
23 enacted to read as follows:

5-0403. Specific duties of the Fargo Police Advisory and Oversight Board.

The Fargo Police Advisory and Oversight Board shall:

- 1. Be invited to assist the Department with community outreach opportunities

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

as well as suggest community events that through Department participation would benefit community relationships;

- 1 2. Advise the Department about community concerns, provide input, and work
- 2 collaboratively with the Department to address them;
- 3 3. Review quarterly and/or annual reports from the Department regarding
- 4 policies of concern to the community;
- 5 4. Review existing Department policies, procedures, and practices related to
- 6 community concerns and provide feedback; and
- 7 5. Review post discipline findings of formal Professional Standards Division
- 8 Investigations of misconduct by Department members.

Section 4. Enactment.

Section 5-0404 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

5-0404. Membership.

The membership of the Fargo Police Advisory and Oversight Board shall be as follows:

- 13 1. The Board shall consist of no more than seven (7) members appointed by
- 14 the board of city commissioners. No more than one (1) member may have
- 15 served in a former law enforcement role at any time;
- 16 2. Membership of the Board will reflect the diversity of the residents of the
- 17 city of Fargo, including but not limited to ethnicity, race, gender, religion,
- 18 sexual orientation, disability, socio-economic, and age; and
- 19 3. Board members selected shall be individuals with an interest in police
- 20 and/or community relations.

Section 5. Enactment.

Section 5-0405 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

5-0405. Qualifications.

Members of the Fargo Police Advisory and Oversight Board shall serve at the pleasure of the board of city commissioners and shall possess the following qualifications to be appointed to the Board:

1. Be at least twenty-one (21) years of age;
2. Be a resident of the city of Fargo;
3. Not be employed by the city of Fargo or be the immediate family member of an employee of the city of Fargo;
4. Not be a member of or the immediate family member of any member of the Fargo board of city commissioners;
5. Be a citizen of the United States;
6. Have no pending criminal charges in any local, state, or federal jurisdiction or court of law;
7. May not have a conviction for any of the following offenses:
 - a. Possession of controlled substances;
 - b. Battery or resist of a law enforcement officer;
 - c. Crimes of dishonesty or false statements; or
 - d. Crimes of moral turpitude, which include charges of prostitution, patronizing a prostitute, promoting prostitution, sale of sexual relations, buying sexual relations, soliciting for immoral purposes, indecent exposure, lewd and lascivious behavior, sodomy, promoting sodomy for hire, patronizing a person offering sodomy for hire, sexual battery, loitering for the purposes of solicitation, indecent liberties with a child, incest, adultery, bigamy, promoting obscenity, promoting obscenity to minors, displaying material

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

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harmful to minors, and possession, sale or distribution of any illegal drug;

1 e. May not have been convicted of any felony; and

2
3 f. May not have been convicted if a misdemeanor domestic violence offense.

4 8. Is not registered as a sex offender with any state, county, or local government;

5
6 9. Is not an elected local, state, or federal public official or a candidate for any such office;

7
8 10. Is not a party or representative of a party presently making a claim against the city of Fargo for any action or inaction of an employee of the city of Fargo;

9
10 11. Is not a present law enforcement officer or the immediate family member of any such law enforcement officer;

11
12 12. Has not served in a law enforcement role in the 5 years proceeding appointment to the Board;

13
14 13. Has not expressed views or acted in such a manner as to demonstrate bias clearly offensive or antithetical to the mission of the Board; and

15
16 14. Is not in arrears on any amounts due and owing the city of Fargo, or has not otherwise defaulted on an obligation due the city of Fargo.

17 All applicants for the Board shall be required to submit to a criminal background check in order to verify qualifications are met prior to appointment to the Board.

18
19 In addition to the above qualifications, all applicants (or members, where applicable) for appointment and continued membership on the Board must participate in Department provided training of up to 40 hours upon appointment or within three (3) months of appointment by the board of city commissioners, and on an as-needed basis while serving on the Board.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 6. Enactment.

Section 5-0406 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

5-0406. Terms of office.

Members of the Fargo Police Advisory and Oversight Board shall serve four-year terms.

1. Members of the Board shall serve a term of four years. In order to establish staggered terms, appointments shall begin upon Ordinance adoption and formation and will include four (4) members for a four-year term, and three (3) members for a three-year term. Thereafter, all members shall be appointed for a four-year term. No member shall serve more than three terms, or 12 years, whether or not consecutive.
2. In the event a vacancy occurs or the individual no longer meets the eligibility requirements during the term of any member, the board of city commissioners may appoint a successor to serve the unexpired term. A successor appointed to complete an unexpired term shall be eligible to serve up to two consecutive terms in addition to the unexpired term. Notwithstanding the expiration of a member's term, such member may serve until his or her successor has been appointed and qualified.
3. A member may be removed by the board of city commissioners from the Board for the following reasons:
 - a. No longer meets the eligibility requirements described in Section 5-0405;
 - b. Misses more than two consecutive (2) Board meetings or fifty percent of Board meetings in a twelve (12) month period;
 - c. Fails to attend or complete assigned training within the times specified in section 5-0405;
 - d. Does not pass the criminal background check in accordance with the criteria set forth in section 5-0405;

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 e. Commences and action or makes a claim against the city of Fargo
2 for any action or inaction of an employee of the city of Fargo;

3 f. Makes any false statement in the application to serve on the Board;

4 g. For such other and further reasons as determined necessary and
5 appropriate by the board of city commissioners.

6 Section 7. Enactment.

7 Section 5-0407 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby
8 enacted to read as follows:

9 Section 5-0407. Meetings and officers.

10 The Board shall hold regular meetings and minutes shall be kept in accordance with the
11 following:

12 1. The Board shall meet at least once monthly at the times and places
13 established by the Department. The meetings shall be subject to all
14 applicable provisions of the North Dakota Open Meetings laws. The
15 Department may call additional meetings if necessary to address significant
16 or time sensitive issues.

17 2. On or before July 1 of each year, the Board shall meet and organize its
18 membership by electing a chairperson and vice-chairperson. The terms of
19 such offices shall be for a period not to exceed two years.

20 3. An executive member of the Department shall attend all meetings and
21 ensure minutes are kept and presented for approval by the Board at the next
22 meeting.

23 4. Notice of all meetings shall be issued by the Department.

 5. The Director of Equity and Inclusion shall be an Ex Officio non-voting
 member of the Board.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 6. The Board shall abide by the North Dakota Open Meetings and the North
2 Dakota Open Records statutes- North Dakota Century Code §44-04, et. seq.

3 Section 8. Enactment.

4 Section 5-0408 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby
5 enacted to read as follows:

6 5-0408. Recommendations and Operations of the Board.

7 1. Recommendations of the Board shall be approved by majority vote of the
8 members present and voting. The quorum required for the Board to conduct
9 business shall be the number of members representing at least one half of
10 the total number of members duly appointed to the Board.

11 2. The Board may adopt lawful rules, regulations, and by-laws, consistent with
12 the provisions of this chapter as it deems necessary for its operation.

13 Section 9. Enactment.

14 Section 5-0409 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby
15 enacted to read as follows:

16 5-0409. Review of post discipline, administrative matters and citizen concerns.

17 1. In addition to the responsibilities set forth in this Chapter, the Board may
18 review cases of misconduct by Department personnel investigated by the
19 Professional Standards Division (PSD). Only cases which are post
20 discipline may be reviewed. Review shall not be heard until all pending
21 case(s) and any applicable appeals, grievances or other review of the
22 incident have been concluded. A request by the Board to review post
23 discipline findings must be made no later than one year from the date the
24 discipline was imposed or completion of the investigation by the
25 Professional Standards Division.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

2. The Department shall establish all necessary procedures to implement the review of post discipline matters brought before them. Included within these procedures will be notification to applicable police personnel involved in the review in accordance with Department policy. All police reports, videos, interviews or other investigative files submitted to the Board for review shall have the personal identifiers of all involved citizens, witnesses and officers redacted in accordance with North Dakota Open Records provisions.

3. The Board's review will be for the purpose of reviewing and advising the Chief of Police on suggested practices and training relevant to issues or concerns uncovered as part of the investigation.

The Chief of Police shall provide written information to the City Administrator or designee and any involved personnel of the Board's suggestions and recommendations.

Section 10. Effective Date

This ordinance shall be in full force and effect from and after its passage and approval.

(SEAL)

Dr. Timothy J. Mahoney, M.D., Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

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CITY OF FARGO POLICE DEPARTMENT



Chief David B. Zibolski

105 25th Street North, Fargo, North Dakota 58102
Office: 701-241-1400 Fax: 701-297-7789
www.fargopolice.com

November 9, 2021

Board of City Commissioners
City Hall
225 4th Street N.
Fargo, ND 58102

43

COPY

RE: Wildlife Management Program

Dear Commissioners,

On June 1, 2021, I brought forward to you my public safety concerns regarding the continuation of the Fargo Wildlife Management Program. This program was created in City ordinance #12-04 in 2006 and identified the Fargo Police Department as the oversight department. I was directed to hold a public hearing regarding this program, which would take input regarding public safety and the future of the program in terms of its structure, operations, and oversight. The public hearing was held on June 24, 2021, and the findings were presented to the Commission during our regular meeting on June 28, 2021.

As a result of the input from the public hearing I requested, and the Commission approved, the creation of a study group to review the public safety concerns, as well as operations, structure and oversight of the Wildlife Management Program. This group contained members from the Fargo Parks District and the North Dakota Game and Fish Department. The study group's initial findings failed to address in any meaningful way the public safety concerns expressed during the June 1st meeting. I asked for the study group to reconvene to look at that concern. On July 21, 2021, the City Commission approved the Wildlife Management Program for 2021-2022 allowing any future study group recommendations to be implemented.

Subsequent to a second meeting of the study group, no significant public safety issues were addressed. Since the completion of the study group's work, I have received a packet of petitions containing signatures of over 300 persons, both city residents as well as Fargo-Moorhead regional residents who regularly utilize our parks system. These petitions were signed supporting the elimination of the Wildlife Management Program due to concerns by these citizens regarding their safety. This information has also been publicly presented at recent Commission Hearings by members of the public.

ADMINISTRATION
Phone: 701-241-1427
Fax: 701-297-7789

INVESTIGATIONS
Phone: 701-241-1405
Fax: 701-241-1407

RECORDS
Phone: 701-241-1420
Fax: 701-241-8272

NON EMERGENCY
Phone: 701-235-4493

In terms of operation and oversight of the Wildlife Management Program, neither the North Dakota Game and Fish Department nor the Fargo Parks District had any interest in taking over the program. On November 8, 2021, I spoke with Parks District Director, David Leker, who informed me that the Parks Commission Board had also received numerous petitions advocating elimination of the program due to public safety concerns. He informed me that if the City of Fargo eliminated the program, he did not believe the Parks District would in any way have an interest in taking it over.

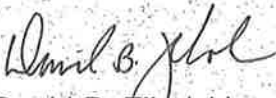
In summation, the Wildlife Management Program creates an easy method for a very small amount of hunters (no more than 45) to hunt areas mostly within the city during specific times. As you are aware, the city has grown greatly in population and in usage of our beautiful parks and recreation areas since 2005. This brings with it an obvious conflict in terms of community members' ability to safely utilize our park system with those who wish to utilize our parks system to hunt deer and turkey with a bow and arrow. There is substantial public land opportunities within the Fargo area for bow and arrow hunters to otherwise safely hunt deer. Therefore, the elimination of this program would in no way take away the hunting abilities of the 45 applicants. However, continuation of the program, based on public input received, is having an adverse effect on public usage of our public park and recreation areas, and creates an unnecessary public safety risk.

Recommended Motion

Repeal Ordinance #12-04, which would eliminate the City's Wildlife Management Program effectively at the conclusion of the 2021-2022 hunting period.

Please contact me if you need any additional information.

Respectfully,



David B. Zibolski
Chief of Police

6/1



Office of the City Attorney

City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

March 27, 2021

Board of City Commissioners
City Hall
225 Fourth Street North
Fargo, ND 58102

RE: An Ordinance Repealing Article 12-04 Relating to Wildlife Management Program Regulations

Dear Commissioners,

Enclosed for your approval is an ordinance repealing Article 12-04 relating to wildlife management program regulations. Mayor Mahoney asked Chief Zibolski to research and report on the efficiency of the program, which began in 2006. The program allowed 45 applicants to hunt deer and turkey within several identified areas adjacent to the Red River with the goal of reducing vehicular crashes due to the surplus of deer and turkeys. Chief Zibolski found that it was unlikely the program has had any significant impact on the number of deer and turkeys within city limits and is no longer an effective program for the following reasons:

- Harvest rates are low;
- An increase in city population now places many identified hunting areas within or adjacent to bike paths and a large number of people and pets; and
- Public safety responsibilities have increased due to the City's population growth, so law enforcement time could be spent elsewhere rather than on program oversight and compliance checks.

As a result of the Chief's report, Mayor Mahoney directed the City Attorney's Office to work with the Fargo Police Department to review and repeal the City's ordinance on this subject. As a result, I am remitting to you for your approval, an ordinance repealing Article 12-04 of the Fargo Municipal Code.

Suggested Motion: I move to receive and file an ordinance repealing Article 12-04 of Chapter 12 of the Fargo Municipal Code relating to wildlife management program regulations and to place the ordinance on for first reading at the next regularly-scheduled city commission meeting.



Please feel free to contact me or Chief Zibolski if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Alissa Farol". The signature is written in a cursive, flowing style.

Alissa R. Farol
Assistant City Attorney

Enc.

cc: Chief David Zibolski, Fargo Police Department

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 AN ORDINANCE REPEALING ARTICLE 12-04 OF CHAPTER 12
2 OF THE FARGO MUNICIPAL CODE RELATING TO WILDLIFE
3 MANAGEMENT PROGRAM-REGULATIONS

4 WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in
5 accordance with Chapter 40-05.1 of the North Dakota Code; and,

6 WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City
7 shall have the right to implement home rule powers by ordinance; and,

8 WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said
9 home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict
10 therewith and shall be liberally construed for such purposes; and,

11 WHEREAS, the Board of City Commissioners deems it necessary and appropriate to
12 implement such authority by the adoption of this ordinance;

13 NOW, THEREFORE,

14 Be It Ordained by the Board of City Commissioners of the City of Fargo:

15 Section 1. Repeal.

16 Article 12-04 of Chapter 12 of the Fargo Municipal Code is hereby repealed in its
17 entirety.
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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. Effective Date.

This ordinance shall be in full force and effect from and after its passage and approval.

Timothy J. Mahoney, M.D., Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Reading:

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M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: GRANT LARSON
DIRECTOR OF ENVIRONMENTAL HEALTH

DATE: NOVEMBER 10, 2021

RE: MASSAGE THERAPY ESTABLISHMENT PROGRAM

Dear Commissioners,

In 2020, the Mayor and former Chief of Police David Todd received letters from citizens concerned about unregulated massage therapy establishments in the city that may employ or offer massage services by unlicensed individuals. Based on these letters and other public interest, City of Fargo administration formed a steering committee to research the validity of implementing a local ordinance and inspection program. The North Dakota State Board of Massage Therapy only investigates complaints and takes disciplinary action against *licensed* massage therapists practicing in the state and directs any complaints involving unlicensed practices to local law enforcement. The City, however, has no authority to regulate these establishments for unlicensed practices. This proposed program presented to you today fills this void by curbing unlicensed practices and inspecting establishments for unsanitary conditions. It is important to note that the program *does not* regulate individual licensed massage therapists; rather, the program regulates the establishment.

At its Feb. 22, 2021 meeting, the Board of City Commissioners directed the steering committee to work with the City Attorney's Office to draft an ordinance pertaining to the regulation of massage therapy establishments. Since then, the City has held numerous public hearings with local massage therapists to help develop said program. As such, I have enclosed a copy of the Massage Therapy Establishment Program ordinance and requirements for your consideration.

Suggested Motion: I move to approve the Massage Therapy Establishment Requirements, as presented, and move to receive and file an ordinance enacting Article 13-18 of Chapter 13 of the Fargo Municipal Code relating to Massage Therapy Establishments and to place the ordinance on for first reading at the next regularly-scheduled city commission meeting.

Please feel free to contact me with any questions or concerns, 241.1388.


Grant Larson



Requirements for Massage Therapy Establishments

**Fargo Cass Public Health
1240 25th Street South
Fargo, ND 58103-2367**

CITY OF FARGO REQUIREMENTS FOR MASSAGE THERAPY ESTABLISHMENTS

A. Purpose.

The purpose of the following requirements for Massage Therapy Establishments is to ensure facilities are sanitary and well-maintained, and to protect the health, safety, and general welfare of the community pursuant to Article 13-18 of the Fargo Municipal Code.

B. Background.

The City of Fargo determined the need to implement requirements and licensing for Massage Therapy Establishments based on the following:

- (1) North Dakota Administrative Code 49-03 defines the requirements for Massage Therapy Establishments, located in North Dakota, but the governing body, the North Dakota Board of Massage Therapy (NDBMT), does not license individual Massage Therapy Establishments;
- (2) The NDBMT directs any individual(s) wishing to start their own massage practice to contact local jurisdiction for ordinances and guidelines associated with a new massage establishment;
- (3) Local implementation of these requirements will fulfill the “gap” in licensing requirements specifically for Massage Therapy Establishments as well as provide a means to conduct annual sanitation inspections;
- (4) The NDBMT only has the ability to take action against licensed individuals, not establishments, and has limited jurisdiction or authority over unlicensed individuals;
- (5) Individual massage therapists licensed by the NDBMT have received standardized training in massage therapy, health, and hygiene, and are equipped to provide a legitimate service to the public;
- (6) Health and sanitation requirements governing Massage Therapy Establishments are meant to reduce the possible spread of communicable diseases and promote overall health and sanitation; and
- (7) Communities who have implemented requirements for Massage Therapy Establishments have addressed illicit activity through their licensing procedures.

C. Definitions.

The following terms used within these requirements shall be defined as follows:

- (1) “Board” - the North Dakota Board of Massage Therapy.
- (2) “Massage” – means the practice of massage therapy by the manual application of a system of structured touch to the soft tissues of the human body, including:
 - a. Assessment, evaluation, or treatment;
 - b. Pressure, friction, stroking, rocking, gliding, kneading, percussion, or vibration;
 - c. Active or passive stretching of the body within the normal anatomical range of movement;
 - d. Use of manual methods or mechanical or electrical devices or tools that mimic or enhance the action of human hands;
 - e. Use of topical applications such as lubricants, scrubs, or herbal preparations; and;
 - f. Use of hot or cold applications.

Note: Except as provided in this chapter, “massage” does not include diagnosis or other services that require a license to practice medicine or surgery, osteopathic medicine, chiropractic, occupational therapy, physical therapy, or podiatry and does not include services provided by a professional acting under a state-issued professional license, certification, or registration.

- (3) “Massage Therapy Establishment” – means any individual, firm, association, corporation, partnership, joint venture, society, public or private institution, or combination of individuals that operates a business that employs or hires licensed massage therapists to provide massage within the city for a fee or other consideration. A Massage Therapy Establishment is a conventional business having physical buildings and facilities and does not include a home occupation.
- (4) “Massage Therapy Establishment Owner or Operator” – means any individual, firm, association, corporation, partnership, joint venture, society, public or private institution, or combination of individuals that operates a business that employs or hires licensed massage therapists to provide massage within the city for a fee or other consideration.
- (5) Massage Therapist – means any individual licensed to practice massage by the Board.
- (6) Licensee – means any Massage Therapy Establishment Owner or Operator who has obtained a Massage Therapy Establishment license.
- (7) Public Health Department - means Fargo Cass Public Health or any representative thereof.

D. Licensure Qualifications.

The following are licensing requirements pursuant to Article 13-18 of the Fargo Municipal Code:

- (1) Massage Therapy Establishment License - It shall be unlawful for any Massage Therapy Establishment to operate, engage in, or carry on, in the city, massage services to the public for consideration without first having obtained a license issued by the public health department. The owner or operator of a Massage Therapy Establishment does not need to be licensed as a massage therapist if they do not practice or administer massage to the public.
- (2) Massage Therapist License - It shall be unlawful for any licensee, to use or permit anyone other than a licensed massage therapist as defined above to engage in, practice, offer or administer massage therapy in that establishment. It shall be the responsibility of the licensee to provide proof of each massage therapist's licensure from the Board, upon request.
- (3) Licensure Exemptions - A Massage Therapy Establishment license is not required under the following circumstances:
 - a. Schools that furnish massage services to their student athletes.
 - b. Any student of a school of massage who is practicing massage in the course of fulfilling a required massage therapy practicum under the direct supervision of a licensed massage therapist or in the course of participating in a school-supervised student massage clinic under the direct supervision of a licensed massage therapist, a school may charge a fee and students may accept tips under a policy set by the school. Students may practice homework unsupervised on other students, family or friends, but no fee or tip may be charged or accepted. These massages may only be performed at the school or at the residence of the student, family member, or friend.
 - c. Any individual who is engaged in a profession or occupation for which the individual is licensed by this state, as long as the individual's activities are performed in the course of a bona fide practice of the individual's profession or occupation and as long as the individual does not represent to the public that the individual is a massage therapist or is engaged in the practice of massage and does not perform massage while working in a massage therapy establishment.
 - d. A health spa or similar business to the extent the spa or business is performing superficial applications used for beautification or health of the skin, including salt glows and contouring.
 - e. Any individual instructor demonstrating massage techniques as a component of a board-approved seminar.

- f. Any individual practicing healing by manipulating the energy field or the flow of energy of the human body by means other than the manipulation of the soft tissues of the body, provided that the individual's services are not designated or implied to be massage or massage therapy. For purposes of this subsection, a light touch or tap is not a manipulation of the soft tissues of the human body.

E. Application for Massage Therapy Establishment License.

A Massage Therapy Establishment owner or operator shall submit an application for a license to the public health department on a form provided by the public health department, along with payment of a required license fee.

F. Issuance of Massage Therapy Establishment License.

- (1) License Periodicity- The license hereof shall be issued annually, January 1, by the public health department. All licenses issued under Article 13-18 of the Fargo Municipal Code, unless otherwise specifically provided, shall terminate on December 31 following the date of issuance. License renewal notices will be mailed by the city auditor's office effective January 1 of each year and shall expire on December 31 of said year.
- (2) License Fee – There will be a fee associated with the Massage Therapy Establishment license. License fees and fees for renewal thereof shall be established by resolution of the board of city commissioners.
- (3) License Display - A license issued pursuant to Article 13-18 of the Fargo Municipal Code shall be displayed in a conspicuous location in the Massage Therapy Establishment for which the license is issued.
- (4) Non-transferrable – Each license will only be issued to the approved applicant and is non-transferrable.
- (5) Inability to reapply for licensure after revocation – If the holder of a Massage Therapy Establishment license has the license revoked, they may not reapply for a new license.

G. General License Restrictions.

Each license issued pursuant to Article 13-18 of the Fargo Municipal Code will include the following restrictions:

- (1) Prohibited massages – A massage therapist must not intentionally massage or offer to massage the penis, scrotum, mon veneris, vulva, or vaginal area of an individual.

- (2) Business hours – No customers or patrons are allowed to enter the licensed facility before 5:00 am or after 10:00 pm daily. Additional hours may be allowed if they are coordinated and approved by the public health department.
- (3) Advertising – Any advertising by a licensee, or representative of the licensee, displaying potentially unlawful, misleading, sexually explicit, obscene, or erotic conduct associated with the Massage Therapy Establishment shall be prohibited.
- (4) Responsible for conduct – A licensee shall be responsible for the conduct of the business being operated in compliance with all applicable laws and ordinances, including the actions of any employee or agent of the licensee on the licensed premises.

H. Individuals Ineligible for Massage Therapy Establishment Licensure.

Applicants for a Massage Therapy Establishment license may be denied a license based on any of the following circumstances:

- a. The applicant is not 18 years of age or older;
- b. The applicant has been convicted of a crime directly related to the occupation;
- c. The applicant has been associated with a massage license that was denied;
- d. The applicant is not a citizen of the United States or resident alien, or is legally prohibited from working in the United States;
- e. The facility described in the application does not meet the definition of a Massage Therapy Establishment as defined in in these requirements and Article 13-18 of the Fargo Municipal Code;
- f. The location and proposed use of the Massage Therapy Establishment is in conflict with the City of Fargo’s Land Development Code;
- g. The proposed use of the Massage Therapy Establishment is in conflict with the Fargo Municipal Code or the laws of North Dakota;
- h. The applicant is the spouse or close relative of a person whose massage-related license has been denied, suspended or revoked any time;
- i. The applicant has allowed a Massage Therapy Establishment license to expire or has surrendered a Massage Therapy Establishment license. In that case, the application shall be treated the same, at the sole discretion of the public health department, as an application for a new license, subject to all ordinance regulations and review processes.

I. Inspections of Massage Therapy Establishments.

Massage Therapy Establishments shall allow inspections by the public health department, inspections department, fire department, and the police department, or their designees. Any attempt to restrict a City of Fargo designee, from conducting an inspection may lead to suspension and/or revocation of said license in addition to any criminal penalties. Inspections and/or investigations may be conducted in a manner authorized by law, when necessary, to determine if the applicant meets the qualifications pursuant to Article 13-18 of the Fargo Municipal Code. Massage Therapy Establishments must comply with the following requirements:

- (1) The portion of a Massage Therapy Establishment in which a massage is provided, and any waiting room and hallway leading to that area, must be in a safe, clean, and sanitary condition;
- (2) A valid Massage Therapy Establishment license, issued by the public health department, shall be prominently displayed in the facility;
- (3) The Massage Therapy Establishment licensee shall identify themselves, along with each massage therapist offering procedures within the facility, by providing a current and valid ID;
- (4) A valid and current license for each massage therapist shall be located on-site and available for review;
- (5) Walls, floors, and ceilings shall be maintained in a clean condition;
- (6) Any mirrors and windows in the massage establishment will be positioned or covered in a manner to maintain the privacy of the person receiving the massage at all time during the massage and while the client is dressing and undressing;
- (7) Massage therapists must provide draping and treatment in a way that ensures the personal safety, comfort, and privacy of the client;
- (8) Massage therapists are responsible for maintaining all equipment and supplies in good working order in accordance with manufacturer's instruction;
- (9) Toilet rooms for employees and patrons must be convenient, accessible, include hot and cold running water, hand soap, and disposable hand towels. Toilet rooms must include clean fixtures and at least one covered waste receptacle;
- (10) Massage therapists must wash their hands and arms with soap and water, anti-bacterial scrubs, alcohol, or other disinfectants prior to and following each massage service;

- (11) All tools, instruments, implements, and equipment must be clean and disinfected before use on a client;
- (12) Cabinets, drawers, and containers used for storage of tools, equipment, instruments, and towels/linens must be clean;
- (13) Massage tables, chairs, or other furniture where massages are performed shall be non-absorbent, disinfected after each massage, and covered by either clean linens or single service paper;
- (14) All linens, coverings, sheets, towels, and pillow casings must be properly cleaned before coming into contact with a client;
- (15) All liquids, creams, and other products must be kept in clean, closed containers. Original product bottles and containers must have an original manufacturer label disclosing its contents. All products used on a client must be dispensed by a spatula, scoop, spoon, squeeze bottle, pump, dropper, or similar dispenser, so the remaining product is not contaminated. Unused products applied to one client must be disposed of and not used on another client;
- (16) The Massage Therapy Establishment shall be maintained in good repair and in a sanitary condition, and steps must be taken to prevent the spread of infections and communicable diseases;
- (17) Premises shall be free of litter, insects, rodents, animals, unnecessary articles, and unauthorized personnel;
- (18) No tobacco or smoking, which includes the use of e-cigarettes or any electronic smoking or vaping devices, shall be allowed inside the Massage Therapy Establishment or within 20 feet of all entrances;
- (19) It is unlawful for a Massage Therapy Establishment, unless properly licensed by the City of Fargo, to provide alcohol to a client and neither the owner, operator, massage therapist, or patrons shall be under the influence of illegal drugs; and
- (20) The Massage Therapy Establishment shall not contain or allow the use of sleeping quarters or living spaces of any kind intended for habitation, including but not limited to beds, cots, or mattresses.

K. Non-renewal, Suspension, or Revocation of License, Immediate Suspension of License and Appeal's Process.

Please refer to Article 13-18 of the Fargo Municipal Code for the processes associated with the non-renewal, suspension, and/or revocation of a license, immediate suspension of a license, and the appeal's process.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA



ORDINANCE NO. _____

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AN ORDINANCE ENACTING ARTICLE 13-18 OF CHAPTER 13
OF THE FARGO MUNICIPAL CODE RELATING TO
MASSAGE THERAPY ESTABLISHMENTS

WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Century Code; and,

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City shall have the right to implement home rule powers by ordinance; and,

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such purposes; and,

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance;

NOW, THEREFORE,

Be It Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Enactment.

Article 13-18 of the Fargo Municipal Code is hereby enacted as follows:

ARTICLE 13-18 – MASSAGE THERAPY ESTABLISHMENTS

Section 13-1801. Definitions.

As used in this ordinance, unless context otherwise indicates, the following definitions shall apply:

1. “Massage” means the practice of massage therapy by the manual application of a system of structured touch to the soft tissues of the human body, including:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

- a. Assessment, evaluation, or treatment;
- b. Pressure, friction, stroking, rocking, gliding, kneading, percussion, or vibration;
- c. Active or passive stretching of the body within the normal anatomical range of movement;
- d. Use of manual methods or mechanical or electrical devices or tools that mimic or enhance the action of human hands;
- e. Use of topical applications such as lubricants, scrubs, or herbal preparations; and
- f. Use of hot or cold applications.

Except as provided in this chapter, “massage” does not include diagnosis or other services that require a license to practice medicine or surgery, osteopathic medicine, chiropractic, occupational therapy, physical therapy, or podiatry and does not include services provided by professionals who act under their state-issued professional license, certification, or registration.

- 2. “Massage Therapy Establishment” means any individual, firm, association, corporation, partnership, joint venture, society, public or private institution, or combination of individuals that operates a business that employs or hires licensed massage therapists to provide massage at a fixed location within the city for a fee or other consideration. For purposes of this article, a massage therapy establishment is a conventional business having physical buildings and facilities and does not include a home occupation.
- 3. “Massage Therapist” means an individual licensed to practice massage by the Board.
- 4. “Massage Therapy Establishment Owner or Operator” means any individual, firm, association, corporation, partnership, joint venture, society, public or private institution, or combination of individuals that operates a business that employs or hires licensed massage therapists to provide massage within the city for a fee or other consideration, which maintains, owns, or operates a massage therapy establishment.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

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1 5. "Licensee" means any massage therapy establishment owner or operator who has
obtained a massage therapy establishment license.

2 6. "Public Health Department" means Fargo Cass Public Health or any representative
3 thereof.

4 7. "Board" means the North Dakota Board of Massage Therapy.

5 **Section 13-1802. Operation of a massage therapy establishment—license required.**

6 It shall be unlawful for any massage therapy establishment to operate, engage in, or carry
7 on, in the city, massage services to the public for consideration without first having
obtained a license issued by the public health department.

8 **Section 13-1803. Separate license for each premises.**

9 A massage therapy establishment license shall apply only to the premises described in the
10 application, and in the license issued thereon, and only one location shall be so described
11 in each license.

12 **Section 13-1804. Exemptions.**

13 A massage therapy establishment license is not required under this section for the following
14 persons or places where massage services are provided by or under the direction of any of
the following:

- 15 1. Schools that furnish massage services to their student athletes.
- 16 2. Any student of a school of massage who is practicing massage in the course of
17 fulfilling a required massage therapy practicum under the direct supervision of a
18 licensed massage therapist or in the course of participating in a school-supervised
19 student massage clinic under the direct supervision of a licensed massage therapist,
20 a school may charge a fee and students may accept tips under a policy set by the
21 school. Students may practice homework unsupervised on other students, family
or friends, but no fee or tip may be charged or accepted. These massages may only
22 be performed at the school or at the residence of the student, family member, or
23 friend.

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- 3. Any individual who is engaged in a profession or occupation for which the individual is licensed by this state, as long as the individual's activities are performed in the course of a bona fide practice of the individual's profession or occupation and as long as the individual does not represent to the public that the individual is a massage therapist or is engaged in the practice of massage and does not perform massage while working in a massage therapy establishment.
- 4. A health spa or similar business to the extent the spa or business is performing superficial applications used for beautification or health of the skin, including salt glows and contouring.
- 5. Any individual instructor demonstrating massage techniques as a component of a board-approved seminar.
- 6. Any individual practicing healing by manipulating the energy field or the flow of energy of the human body by means other than the manipulation of the soft tissues of the body, provided that the individual's services are not designated or implied to be massage or massage therapy. For purposes of this subsection, a light touch or tap is not a manipulation of the soft tissues of the human body.

Section 13-1805. Application; fee.

A massage therapy establishment owner or operator shall submit an application for a license to the public health department on a form provided by the public health department along with payment of a required license fee. License fees and fees for renewal thereof shall be established by resolution of the board of city commissioners. The application must include the name and complete mailing address and street address of the massage therapy establishment along with any other information reasonably required by the public health department for the administration of this section. Investigations may be conducted in a manner authorized by law when necessary to determine if the applicant meets the qualifications pursuant to this article.

Section 13-1806. License to operate massage therapy establishment issued annually.

The license hereof shall be issued annually, January 1, by the public health department. All licenses under the provisions of this article, unless otherwise specifically provided, shall terminate on December 31 following the date of issuance. License renewal notices will be mailed by the city auditor's office effective January 1 of each year and shall expire

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on December 31 of said year.

Section 13-1807. Display of license—license nontransferable.

1 A license issued pursuant to this article shall be displayed in a conspicuous location in the
2 massage therapy establishment for which the license is issued. A license issued pursuant
to this article is non-transferable.

3 **Section 13-1808. Licensed massage therapists—required.**

4 It shall be unlawful for any licensee or massage therapy establishment owner or operator
5 to employ, use or permit anyone other than a licensed massage therapist as defined in this
6 article to engage in, practice, offer or administer massages or massage therapy in that
7 establishment. It shall be the responsibility of the licensee or massage therapy
establishment owner or operator to provide proof of each massage therapist's licensure
8 from the Board, upon request.

9 A violation of this section may result in a denial of a massage therapy establishment license
or cause the non-renewal, suspension or revocation of said establishment's license.

10 **Section 13-1809. List of employees.**

11 A licensee shall keep a written list of names and current addresses for all employees. Such
12 list shall be shown to the public health department or its designee, upon request.

13 **Section 13-1810. Regulation, inspection and enforcement.**

14 In order to provide for the public health and safety, the public health department is
15 authorized to promulgate regulations creating minimum standards for massage therapy
16 establishments, which regulations may be enforced by city officials, including, but not
17 limited to, the public health department, police department, fire department, inspections
department, or their designees.

18 City officials, including, but not limited to, the public health department, police
19 department, fire department, inspections department, or their designees shall have the
20 authority to enter upon the premises of the massage therapy establishment during business
hours and inspect the facility as often as necessary to confirm compliance with the
provisions of this article. This section shall not restrict or limit the right of entry vested in
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any law enforcement agency. In the event of a failure to comply with the provisions of this article, after due notice thereof, the public health department shall have the power to abate or cause a suspension of the use of the massage therapy establishment license until such time as the same is, in the opinion of the public health department, no longer a hazard to public health or safety.

Section 13-1811. Non-renewal, suspension, or revocation of license.

A massage therapy establishment license may be suspended, revoked or not renewed for any of the following reasons:

1. A violation related to fraud, misrepresentation, or false statement contained in a license application or a renewal application.
2. A violation related to fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.
3. The licensee has been convicted of a felony under the laws of the United States or any state.
4. Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.
5. If the owner, manager, lessee or any of the employees are found to be in control or in possession of an alcoholic beverage, a narcotic drug or controlled substance on the premises, other than drugs which may be purchased over the counter without a prescription or those for which the individual has a prescription.
6. If the licensee or massage therapy establishment owner or operator fails to maintain with the issued authority a current list of all employees of such licensed premises. The list shall include all massage therapists. It is the responsibility of the massage therapy establishment owner or operator to keep the public health department apprised of any changes in the list of current employees.
7. If the licensee or massage therapy establishment owner or operator employs, uses or permits anyone other than a licensed massage therapist as defined in this article to engage in, practice, offer or administer massages or massage therapy in that establishment.

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1 The grounds enumerated in this section shall not be deemed to be exclusive, and any license
2 issued under the provisions of this article may be suspended or revoked for any other reason
3 deemed to be sufficient in order to promote and protect the public health, safety, morals
4 and general welfare of the people of the city of Fargo.

5 **Section 13-1812. Appeals.**

6 Before the public health department may revoke, suspend, deny or not renew a license,
7 written notice must be sent to the licensee or massage therapy establishment owner or
8 operator setting forth the alleged grounds for the potential action. Any person aggrieved
9 by a decision of the public health department may appeal such decision by filing a notice
10 of appeal with the director of public health. Appeals of final decisions made pursuant to
11 the procedures of this article must be filed within 10 days of the date of the decision. Said
12 appeal must be in writing and shall be submitted to the director of public health. The board
13 of city commissioners shall consider the appealed decision as a new matter in a public
14 hearing and, at the close of the public hearing, act to affirm or reverse the original decision.

15 **Section 13-1813. Immediate suspension of license.**

16 The director of public health or its designee may immediately suspend a license, if the
17 licensee, or any person working on behalf of the licensee, is determined to be conducting
18 business in an unlawful manner, any manner that constitutes a substantial hazard to the
19 health, safety, or general welfare of the public, or after repeated complaints received
20 regarding unlawful conduct of the business practices or method of solicitation. The
21 licensee will be given notice of the immediate suspension on site, and the suspension will
22 take place immediately. The licensee can request a hearing within 10 days of notice of the
23 suspension and the hearing procedure will be the same as set forth in Section 13-1812.

Section 2. Penalty.

A person who willfully violates this ordinance is guilty of an infraction. Every person, firm
or corporation violating an ordinance which is punishable as an infraction shall be punished
by a fine not to exceed \$1,000; the court to have power to suspend said sentence and to
revoke the suspension thereof.

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FARGO, NORTH DAKOTA

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Section 3. Effective Date.

This ordinance shall be in full force and effect from and after its passage, approval, and publication.

Timothy J. Mahoney, M.D., Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

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Office of the City Attorney

City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

November 10, 2021

Board of City Commissioners
City Hall
225 4th Street North
Fargo, ND 58102

RE: Resolution Seeking Advisory Ballot Question on Term Limits Ordinance

Dear Commissioners,

Enclosed herewith is a draft Resolution for your consideration seeking an advisory vote at the June 14, 2022, city election regarding the City's term limits ordinance. At the July 12, 2021 city commission meeting, you directed the City Attorney "... to draft a Resolution for residents to decide to whether to keep term limits for Fargo City Commissioners (including the Mayor) or to discontinue term limits for Fargo Commissioners (to include the Mayor)." The enclosed draft resolution, if approved would authorize and direct the city auditor to take the appropriate steps to place such a ballot question before the city electorate.

SUGGESTED MOTION: I move to approve and adopt the Resolution Seeking Advisory Ballot Question on Term Limits Ordinance as presented.

Sincerely,



Erik R. Johnson

ERJ/lmw

Enclosure



Commissioner _____ introduced the following Resolution and moved its adoption:

RESOLUTION

**SEEKING ADVISORY BALLOT QUESTION
ON TERM LIMITS ORDINANCE**

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

WHEREAS, the City of Fargo, is a North Dakota municipal corporation, organized and existing under the laws of the State of North Dakota, which has adopted a Home Rule Charter, pursuant to the authority of N.D.C.C. Chapter 40-05.1; and,

WHEREAS, Fargo Municipal Code Section 2-0106 currently sets forth certain term limitations for members of the board of city commissioners of the City, as follows:

2-0106. Limitation on terms.--No member of the board of city commissioners may serve more than three (3) successive four-year terms; provided, that such term limitation shall be subject to the following:

- A. Any member elected to a term of less than four years as a result of a vacancy on the board shall be eligible to serve three additional four-year terms.
- B. Any member who has completed three successive four-year terms shall not be eligible for reelection until the next regular election following the expiration of such member's third successive term.
- C. Any member who has served in the capacity of mayor, as well as city commissioner, may not serve more than four (4) successive four-year terms.
- D. This ordinance shall not apply to any member of the board whose first election as either mayor or commissioner occurred prior to April of 1992;

[the "Fargo Term Limits Ordinance"]; and,

WHEREAS, the Board of City Commissioners is seeking the advice of the City's electors as to whether the City should retain the Fargo Term Limits Ordinance or, instead, should it be repealed; and,

WHEREAS, the Board of City Commissioners wishes to seek an advisory vote of the City's electors by placing the question on the ballot at the next regular City-wide election, scheduled to occur on Tuesday, June 14, 2022, said ballot question to be an advisory question intended to seek the input of the City of Fargo voters but not intended to

be binding upon the Fargo city commission;

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners of the City of Fargo as follows:

1. That a question be placed before the City of Fargo electorate seeking an advisory vote as to whether the City's term limits ordinance, F.M.C. Section 2-0106, should remain in place or should it be repealed, said vote; and,
2. The City Auditor is authorized and directed to take such action as may be necessary to place said question before the voters by placing the matter on the ballot for the June 14, 2022, election.

BE IT FURTHER RESOLVED, By the Board of City Commissioners of the City of Fargo that this Resolution be published in the official newspaper for the City of Fargo prior to sixty (60) days prior to the said city election.

ATTEST:

CITY OF FARGO

Steven Sprague, City Auditor

Timothy J. Mahoney, M.D., Mayor

The motion for the adoption of the foregoing Resolution was duly seconded by Commissioner _____. On roll call vote, the following Commissioners voted aye: _____.

The following Commissioners voted nay: _____. The following were absent and not voting: _____, so the motion carried and the Resolution was duly adopted.

CITY OF
Fargo
ASSESSMENT DEPARTMENT



October 27, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 3115 Peterson Pkwy N as submitted by Shauna Erickson-Abou Zahr & Abdallah Abou Zahr. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 3 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$8,020 with the City of Fargo's share being \$1,360.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Mike Splonskowski'.

Mike Splonskowski
City Assessor

bsb
attachment

**Application For Property Tax Exemption For Improvements
To Commercial And Residential Buildings**

North Dakota Century Code ch. 57-02.2
(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Shauna Erickson-Abou Zahr Phone No. 701 371 9312

2. Address of Property 3115 peterson Pkwy N
 City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed, EDGEWOOD FARMS LT 3 BLK 4

4. Parcel Number 01-0735-00600-000 Residential Commercial Central Business District

5. Mailing Address of Property Owner 3115 peterson pkwy N
 City Fargo State ND Zip Code 58102

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary), see attached; full home renovation

7. Building Permit No. 2106-0097-REN 8. Year Built 1985

9. Date of Commencement of making the improvement 6/14/21

10. Estimated market value of property before improvement \$ 565,000

11. Cost of making the improvement (all labor, material and overhead) \$ 610,000

12. Estimated market value of property after improvement \$ 1,200,000

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

Applicant's Signature [Signature] Date 10/25/21

Assessor's Determination

14. The local assessor finds that the improvements in this application has has not met the qualifications for exemption for the following reason(s):

Assessor's Signature [Signature] Date 10-29-2021

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied Approved

Approval subject to the following conditions: _____

Chairman of Governing Body _____ Date _____

Submit Via Email

CITY OF
Fargo
ASSESSMENT DEPARTMENT

466

October 26, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 3120 Hickory St N as submitted by Lee & Ashley Pratschner. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 3 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$225 with the City of Fargo's share being \$40.

Sincerely,



Mike Splonskowski
City Assessor

bsb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lt 26, Blk 1, Longfellow Park

2. Address of Property 3120 Hickory St N

3. Parcel Number 01-1790-00300-000

4. Name of Property Owner Lee & Ashley Pratschner Phone No. 701-541-5912

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Remodel main floor & 2 baths

7. Building permit No. 2104-0837 8. Year built (residential property) 1983

9. Date of commencement of making the improvements 04/27/2021

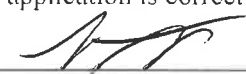
10. Estimated market value of property before the improvements \$ 267,400.00

11. Cost of making the improvement (all labor, material and overhead) \$ 45,000.00

12. Estimated market value of property after the improvements \$ 284,500.00


Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant Lee Pratschner  Date 10/20/2021

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization  Date 10-29-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20 __, 20 __, 20 __, 20 __, 20 __.

Chairperson _____ Date _____



ASSESSMENT DEPARTMENT

Handwritten initials "Hdc" enclosed in a hand-drawn circle.

November 2, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1922 East Rose Creek Pkwy S as submitted by Scott & Dolores Wood. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 3 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$260 with the City of Fargo's share being \$45.

Sincerely,

Handwritten signature of Mike Splonskowski in cursive.

Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Pt of Lt 16, Blk 1, Rose Creek 6th

2. Address of Property 1922 East Rose Creek Pkwy S

3. Parcel Number 01-2486-00161-000

4. Name of Property Owner Scott & Dolores Wood Phone No. _____

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Steel siding

7. Building permit No. 2106-0160 8. Year built (residential property) 1996

9. Date of commencement of making the improvements 06/07/2021

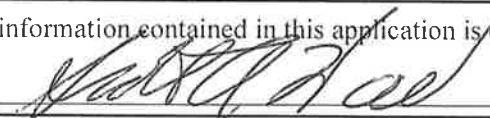
10. Estimated market value of property before the improvements \$ 452,100.00

11. Cost of making the improvement (all labor, material and overhead) \$ 34,825.00

12. Estimated market value of property after the improvements \$ 471,900.00

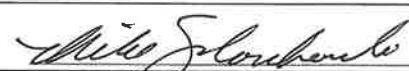
Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant  Date 10/25/2021

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization  Date 11-5-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20 __, 20 __, 20 __, 20 __, 20 __.

Chairperson _____ Date _____

CITY OF
Fargo
ASSESSMENT DEPARTMENT

Had

November 2, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 5315 18 St S as submitted by Charles & Christen Mathson. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 3 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$120 with the City of Fargo's share being \$20.

Sincerely,



Mike Splonskowski
City Assessor

nlb
attachment

**Application For Property Tax Exemption For Improvements
To Commercial And Residential Buildings**

North Dakota Century Code ch. 57-02.2
(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Charles & Christen Mathson Phone No. 701-238-2815

2. Address of Property 5315 18 St S

City FARGO State ND Zip Code 58104

3. Legal description of the property for which the exemption is being claimed. Pt of Lt 9
Blk 2 Greenfields 1st

4. Parcel Number 01-1060-00371-000 Residential Commercial Central Business District

5. Mailing Address of Property Owner same

City _____ State _____ Zip Code _____

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Install steel siding

7. Building Permit No. 21060834 8. Year Built 1991

9. Date of Commencement of making the improvement 7/7/21

10. Estimated market value of property before improvement \$ 193,600

11. Cost of making the improvement (all labor, material and overhead) \$ 22,614.80

12. Estimated market value of property after improvement \$ _____

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

Applicant's Signature Chad Wroth Date 10/29/21

Assessor's Determination

14. The local assessor finds that the improvements in this application has has not met the qualifications for exemption for the following reason(s): _____

Assessor's Signature Kate Johnson Date 11-5-2021

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied Approved

Approval subject to the following conditions: _____

Chairman of Governing Body _____ Date _____

Submit Via Email

CITY OF
Fargo
ASSESSMENT DEPARTMENT



November 2, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 3030 20 St S as submitted by Darrell & Cheryl Troftgruben. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 3 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$110 with the City of Fargo's share being \$20.

Sincerely,



Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed N 50' of Lt 13, Blk 5, Rheault Addition

2. Address of Property 3030 20 St S

3. Parcel Number 01-2350-00668-000

4. Name of Property Owner Darrell & Cheryl Troftgruben Phone No. 701-280-3136

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Replace siding & underlayment

7. Building permit No. 21040706 8. Year built (residential property) 1983

9. Date of commencement of making the improvements 04/21/2021

10. Estimated market value of property before the improvements \$ 174,300.00

11. Cost of making the improvement (all labor, material and overhead) \$ 16,725.00

12. Estimated market value of property after the improvements \$ 182,600.00

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant Cheryl Troftgruben Date Oct 25, 2021

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization [Signature] Date 11-5-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20 __, 20 __, 20 __, 20 __, 20 __.

Chairperson _____ Date _____

CITY OF
Fargo
ASSESSMENT DEPARTMENT

46f

November 1, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1518 3rd St N as submitted by Sigurd & Anita J Folden. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$340 with the City of Fargo's share being \$60.

Sincerely,



Mike Splonskowski
City Assessor

nib
attachment

To Commercial And Residential Buildings

North Dakota Century Code ch. 57-62.2

(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Sigurd + Anita J Folden Phone No. 701-237-4126

2. Address of Property 1518 3rd St No.
 City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed. Lot 19
Block 3 Addition HOGANS

4. Parcel Number 01-1280-00710-000 Residential Commercial Central Business District

5. Mailing Address of Property Owner 1518 3rd St No.
 City FARGO State N.D. Zip Code 58102

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). New Steel Siding And Underlayment On House And Garage

7. Building Permit No. 2109-1039-SIDE 8. Year Built 1950

9. Date of Commencement of making the improvement 10-16-2021

10. Estimated market value of property before improvement \$ 191,700.00

11. Cost of making the improvement (all labor, material and overhead) \$ 25,838.00

12. Estimated market value of property after improvement \$ 217,538.00

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

Applicant's Signature Sig Folden Date 10-28-2021

Assessor's Determination

14. The local assessor finds that the improvements in this application has has not met the qualifications for exemption for the following reason(s):

Assessor's Signature Theresa Gronlund Date 11-5-2021

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied Approved

Approval subject to the following conditions:

Chairman of Governing Body _____ Date _____

CITY OF
Fargo
ASSESSMENT DEPARTMENT

4698

November 1, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 2319 26 ½ Ct S as submitted by John E & Karen K Ringdrud. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$370 with the City of Fargo's share being \$65.

Sincerely,



Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lot 8, Block 3, Crarys 1st

2. Address of Property 2319 26 1/2 Ct S

3. Parcel Number 01-0505-00290-000

4. Name of Property Owner John E & Karen K Ringsrud Phone No. 701/740-7577

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). New metal siding

7. Building permit No. None 8. Year built (residential property) 1983

9. Date of commencement of making the improvements ? Completed on 04/07/20 (est.)

10. Estimated market value of property before the improvements \$ 243,200.00

11. Cost of making the improvement (all labor, material and overhead) \$ 28,266.33

12. Estimated market value of property after the improvements \$ 255,000.00

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant John Ringsrud Date 10/26/2021

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization Michelle Lovdahl Date 11-5-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20___, 20___, 20___, 20___, 20___.

Chairperson _____ Date _____

CITY OF
Fargo
ASSESSMENT DEPARTMENT



November 1, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1637 5 Ave S as submitted by Susan Heidenreich. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$130 with the City of Fargo's share being \$20.

Sincerely,



Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Pt of Lt 8, all of Lt 7, Blk 10, Arnesons

2. Address of Property 1637 5 Ave S

3. Parcel Number 01-0060-00850-000

4. Name of Property Owner Susan Heidenreich Phone No. _____

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). New siding

7. Building permit No. 2109-0950 8. Year built (residential property) 1950

9. Date of commencement of making the improvements 09/28/2021

10. Estimated market value of property before the improvements \$ 158,700.00

11. Cost of making the improvement (all labor, material and overhead) \$ 9,800.00

12. Estimated market value of property after the improvements \$ 165,300.00

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant Susan Heidenreich Date 10/29/21

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization Michelle Johnson Date 11-5-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20___, 20___, 20___, 20___, 20___.

Chairperson _____ Date _____

CITY OF
Fargo
ASSESSMENT DEPARTMENT

Albi

November 1, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 29 South Woodcrest Dr N as submitted by Jeffrey & Catherine Huseby. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$435 with the City of Fargo's share being \$75.

Sincerely,



Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lt 2, Blk 7, Woodcrest 2nd

2. Address of Property 29 South Woodcrest Dr N

3. Parcel Number 01-4050-00020-000

4. Name of Property Owner Jeffrey & Catherine Huseby Phone No. _____

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Replace siding

7. Building permit No. 2105-0640 8. Year built (residential property) 1968

9. Date of commencement of making the improvements 05/18/2021

10. Estimated market value of property before the improvements \$ 249,400.00

11. Cost of making the improvement (all labor, material and overhead) \$ 32,983.00

12. Estimated market value of property after the improvements \$ 259,400.00

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant [Signature] Date 10/28/21

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization [Signature] Date 11-5-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20 __, 20 __, 20 __, 20 __, 20 __.

Chairperson _____ Date _____

CITY OF
Fargo
ASSESSMENT DEPARTMENT

46j

November 5, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 513 24 Ave S as submitted by Aaron & Holly Nissen. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$105 with the City of Fargo's share being \$20.

Sincerely,



Mike Splonskowski
City Assessor

nlb
attachment

**Application For Property Tax Exemption For Improvements
To Commercial And Residential Buildings**

North Dakota Century Code ch. 57-02.2
(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Aaron & Holly Nissen Phone No. 701.729.1841
2. Address of Property 513 24 Ave S
City FARGO State ND Zip Code 58103
3. Legal description of the property for which the exemption is being claimed. Lts 6 Blk 1
Country Club
4. Parcel Number 01-0500-00060-000 Residential Commercial Central Business District
5. Mailing Address of Property Owner same
City _____ State _____ Zip Code _____

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Remodel kitchen, living room, and dining room
7. Building Permit No. 20120058 8. Year Built 1963
9. Date of Commencement of making the improvement 11/2020
10. Estimated market value of property before improvement \$ 309,200
11. Cost of making the improvement (all labor, material and overhead) \$ 58,365⁰⁰
12. Estimated market value of property after improvement \$ _____

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.
Applicant's Signature [Signature] Date 10/19/21

Assessor's Determination

14. The local assessor finds that the improvements in this application has has not met the qualifications for exemption for the following reason(s):
Assessor's Signature [Signature] Date 11-9-2021

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied Approved
Approval subject to the following conditions: _____
Chairman of Governing Body _____ Date _____

Submit Via Email

CITY OF
Fargo
ASSESSMENT DEPARTMENT



November 5, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1449 10 St S as submitted by James K & Alison B Leiman. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$395 with the City of Fargo's share being \$70.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Mike Splonskowski', located below the word 'Sincerely,'.

Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lot 13, Blk 9, Huntingtons

2. Address of Property 1449 10 St S

3. Parcel Number 01-1400-01290-000

4. Name of Property Owner James & Alison Leiman Phone No. _____

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Vinyl siding

7. Building permit No. 2105-0098 8. Year built (residential property) 1940

9. Date of commencement of making the improvements 05/07/2021

10. Estimated market value of property before the improvements \$ 237,800.00

11. Cost of making the improvement (all labor, material and overhead) \$ 30,000.00

12. Estimated market value of property after the improvements \$ 249,000.00

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant [Signature] Date 10-30-21

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization [Signature] Date 11-5-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20 __, 20 __, 20 __, 20 __, 20 __.

Chairperson _____ Date _____

CITY OF
Fargo
ASSESSMENT DEPARTMENT

462

November 5, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1103 8 Ave S as submitted by John H & Kristin E Osborne. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$1185 with the City of Fargo's share being \$200.

Sincerely,



Mike Splonskowski
City Assessor

nlb
attachment

**Application For Property Tax Exemption For Improvements
To Commercial And Residential Buildings**
North Dakota Century Code ch. 57-02.2
(File with the local city or township assessor)

Property Identification

1. Name of Property Owner John and Kristin Osborne Phone No. 701-371-2778

2. Address of Property 1103 8th ave S
 City FARGO State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed. Lot 14, Block C, Charles A. Roberts addition Lots 14 & 15 Block K C

4. Parcel Number 01-2400-00380-000 Residential Commercial Central Business District

5. Mailing Address of Property Owner PO Box 5151
 City Fargo State ND Zip Code 58105

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). new shingles on back addition, removed old boiler heating system and replaced with forced air heating and new central AC unit, repaired damaged walls, repaired faulty electrical and plumbing, refinished hardwood, new kitchen and flooring

7. Building Permit No. NA 8. Year Built 1910

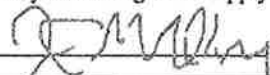
9. Date of Commencement of making the improvement June 2021

10. Estimated market value of property before improvement \$ 80,000

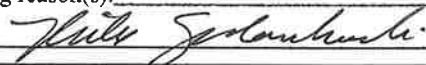
11. Cost of making the improvement (all labor, material and overhead) \$ 90,000

12. Estimated market value of property after improvement \$ 170,000

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.
 Applicant's Signature John H. Osborne  Date 11-4-2021

Assessor's Determination

14. The local assessor finds that the improvements in this application has has not met the qualifications for exemption for the following reason(s):
 Assessor's Signature Julie J. Gombkowski  Date 11-5-2021

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied Approved
 Approval subject to the following conditions: _____

 Chairman of Governing Body _____ Date _____

Submit Via Email



How

November 5, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1353 9 St N as submitted by John & Kristin Osborne. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$1050 with the City of Fargo's share being \$180.

Sincerely,

A handwritten signature in cursive script that reads "Mike Splonskowski".

Mike Splonskowski
City Assessor

nlb
attachment

**Application For Property Tax Exemption For Improvements
To Commercial And Residential Buildings**
North Dakota Century Code ch. 57-02.2
(File with the local city or township assessor)

Property Identification

1. Name of Property Owner John and Kristin Osborne Phone No. 701-371-2778

2. Address of Property 1353 9th st N

City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed. S 60' of N 110' of W 167.5' of Lot 32, Block 0, Ohmers addition

4. Parcel Number 01-2220-01810-000 Residential Commercial Central Business District

5. Mailing Address of Property Owner PO Box 5151

City Fargo State ND Zip Code 58105

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). new siding, fascia, gutters, downspouts, removed old boiler heating system and replaced with forced
refinished hardwood, new kitchen and flooring

7. Building Permit No. NA 8. Year Built 1950

9. Date of Commencement of making the improvement November 2021

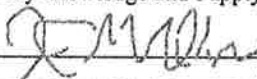
10. Estimated market value of property before improvement \$ 90,000

11. Cost of making the improvement (all labor, material and overhead) \$ 80,000

12. Estimated market value of property after improvement \$ 170,000

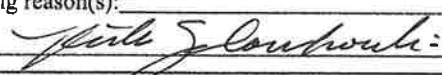
Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

Applicant's Signature John H. Osborne  Date 11-4-2021

Assessor's Determination

14. The local assessor finds that the improvements in this application has has not met the qualifications for exemption for the following reason(s): -

Assessor's Signature  Date 11-5-2021

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied Approved

Approval subject to the following conditions: -

Chairman of Governing Body - Date -

Submit Via Email

CITY OF
Fargo
ASSESSMENT DEPARTMENT



November 5, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1213 1 St N as submitted by Cody J Hellquist. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$90 with the City of Fargo's share being \$15.

Sincerely,



Mike Splonskowski
City Assessor

nlb
attachment

**Application For Property Tax Exemption For Improvements
To Commercial And Residential Buildings**
North Dakota Century Code ch. 57-02.2
(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Cody Hellquist Phone No. _____

2. Address of Property 1213 1 St. N

City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed. Lot All of 12 and N 1/2 of 13 Blk 2 Bernard Holes 1st

4. Parcel Number 01-1300-02620-000 Residential Commercial Central Business District

5. Mailing Address of Property Owner SAME

City _____ State _____ Zip Code _____

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Finish 1/2 of basement

7. Building Permit No. 20070725 8. Year Built 1951

9. Date of Commencement of making the improvement 07128120

10. Estimated market value of property before improvement \$ 215000

11. Cost of making the improvement (all labor, material and overhead) \$ _____

12. Estimated market value of property after improvement \$ 221600

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

Applicant's Signature Cody Hellquist Date 11-2-21

Assessor's Determination

14. The local assessor finds that the improvements in this application has has not met the qualifications for exemption for the following reason(s): _____

Assessor's Signature Nick Selvanicki Date 11-5-2021

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied Approved

Approval subject to the following conditions: _____

Chairman of Governing Body _____ Date _____

CITY OF
Fargo
ASSESSMENT DEPARTMENT

460

October 26, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 3308 Longfellow Rd N as submitted by Robert & Rebecca Dura. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$145 with the City of Fargo's share being \$25.

Sincerely,



Mike Splonskowski
City Assessor

bsb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lot 6, Block 3, Golf Course 2nd

2. Address of Property 3308 Longfellow Rd N

3. Parcel Number 01-1002-00120-000

4. Name of Property Owner Robert & Rebecca Dura Phone No. 701-219-4246

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Steel siding, house wrap, fascia & soffit

7. Building permit No. 2101-0460 8. Year built (residential property) 1974

9. Date of commencement of making the improvements 01/20/2021

10. Estimated market value of property before the improvements \$ 256,100.00

11. Cost of making the improvement (all labor, material and overhead) \$ 14,775.00

12. Estimated market value of property after the improvements \$ 267,100.00


Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant Rebecca Dura Date 10-20-21

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____


Assessor/Director of Tax Equalization W. J. [Signature] Date 10-29-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20___, 20___, 20___, 20___, 20___.

Chairperson _____ Date _____



ASSESSMENT DEPARTMENT

46p

October 21, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 328 28 Ave N as submitted by Gregory & Margaret Wheelden. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$140 with the City of Fargo's share being \$25.

Sincerely,

A handwritten signature in cursive script that reads "Mike Splonskowski".

Mike Splonskowski
City Assessor

bsb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed W 60' of E 247' of Lt 1, Blk 1
Edgewood 1st

2. Address of Property ~~328~~ ³²⁸ 28 Ave N 328-28th Ave N

3. Parcel Number 01-0720-00008-000

4. Name of Property Owner Gregory & Margaret Wheelden Phone No. 701 3062100

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Seamless steel siding

7. Building permit No. 2104-0657 8. Year built (residential property) 1971

9. Date of commencement of making the improvements 04/21/2021

10. Estimated market value of property before the improvements \$ 232,000.00

11. Cost of making the improvement (all labor, material and overhead) \$ 19,000.00 ^{#20184.00}

12. Estimated market value of property after the improvements \$ 252,000

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant *[Signature]* Date 10/17/2021

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization *[Signature]* Date 10-29-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20 __, 20 __, 20 __, 20 __, 20 __.

Chairperson _____ Date _____

CITY OF
Fargo
ASSESSMENT DEPARTMENT

469

October 26, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 3225 Elm St N as submitted by Robert Hearne. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$145 with the City of Fargo's share being \$25.

Sincerely,



Mike Splonskowski
City Assessor

bsb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lt 6, Blk 1, Golf Course 1st

2. Address of Property 3225 Elm St N

3. Parcel Number 01-1001-00060-000

4. Name of Property Owner Robert Hearne Phone No. _____

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Kitchen remodel, remove walls to open to living room

7. Building permit No. 2103-0592 8. Year built (residential property) 1971

9. Date of commencement of making the improvements 03/26/2021

10. Estimated market value of property before the improvements \$ 246,200.00

11. Cost of making the improvement (all labor, material and overhead) \$ 22,000.00

12. Estimated market value of property after the improvements \$ 257,300.00

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant *R. Hearne* Date 10/21/2021

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization *Michelle Schubert* Date 10-29-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20 __, 20 __, 20 __, 20 __, 20 __.

Chairperson _____ Date _____

CITY OF
Fargo
ASSESSMENT DEPARTMENT



October 26, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 3531 Longfellow Rd N as submitted by Larry & Robin Olson. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$535 with the City of Fargo's share being \$90.

Sincerely,



Mike Spionskowski
City Assessor

bsb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lot 2, Block 4, Golf Course 3rd

2. Address of Property 3531 Longfellow Rd N

3. Parcel Number 01-1003-00770-000

4. Name of Property Owner Larry & Robin Olson Phone No. _____

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Finish basement

7. Building permit No. 21061094 8. Year built (residential property) 1976

9. Date of commencement of making the improvements 07/05/2021

10. Estimated market value of property before the improvements \$ 296,700.00

11. Cost of making the improvement (all labor, material and overhead) \$ 40,000.00

12. Estimated market value of property after the improvements \$ _____

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant Larry Olson Date 10/20/21

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization Walter Jelencowski Date 10-21-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20 __, 20 __, 20 __, 20 __, 20 __.

Chairperson _____ Date _____

CITY OF
Fargo
ASSESSMENT DEPARTMENT

465

October 26, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 3531 Longfellow Rd N as submitted by Larry & Robin Olson. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$380 with the City of Fargo's share being \$65.

Sincerely,



Mike Splonskowski
City Assessor

bsb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

- 1. Legal description of the property for which exemption is claimed Lot 2, Block 4, Golf Course 3rd
- 2. Address of Property 3531 Longfellow Rd N
- 3. Parcel Number 01-1003-00770-000
- 4. Name of Property Owner Larry & Robin Olson Phone No. _____
- 5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

- 6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Kitchen remodel, interior doors & flooring updated
- 7. Building permit No. 20090913 8. Year built (residential property) 1976
- 9. Date of commencement of making the improvements 10/06/2020
- 10. Estimated market value of property before the improvements \$ 267,900.00
- 11. Cost of making the improvement (all labor, material and overhead) \$ 18,500.00
- 12. Estimated market value of property after the improvements \$ _____

Applicant's Certification And Signature

- 13. I certify that the information contained in this application is correct to the best of my knowledge.
Applicant Larry Olson Date 10/20/21

Assessor's Determination And Signature

- 14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____
Assessor/Director of Tax Equalization [Signature] Date 10-29-2021

Action Of Governing Body

- 15. Action taken on this application by the governing board of the county or city: Approved Denied
Approval is subject to the following conditions: _____
Exemption is allowed for years 20 ____, 20 ____, 20 ____, 20 ____, 20 ____.
Chairperson _____ Date _____