

CITY COMMISSION MEETING
VALLEY CITY, NORTH DAKOTA

Tuesday, March 18, 2025
5:00 PM

The City Commission Meeting will begin on Tuesday, March 18, 2025 at 5:00 PM CT, at the City Commission Chambers, 254 2nd Avenue NE, Valley City, ND.

The meeting is also available to view online <https://us06web.zoom.us/j/89301646417> or listen by calling (1 346 248 7799) Webinar ID: 893 0164 6417.

Board of City Commissioners	Role	Department Supervisor	Role
Dave Carlsrud	President	Gwen Crawford	City Administrator
Michael Bishop	Commissioner	Carl Martineck	City Attorney
Duane Magnuson	Commissioner	Brenda Klein	Finance Director
Jeffrey Erickson	Commissioner	Brandy Johnson	Deputy Auditor
Dick Gulmon	Commissioner	Tina Current	City Assessor
		Gary Jacobson	Public Works Accountant
		Scott Magnuson	Fire Chief
		Nick Horner	Police Chief
		KLJ/Moore	City Engineers

NEXT RESOLUTION NO. 2475NEXT ORDINANCE NO. 1171

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE (PLEASE STAND)

APPROVAL OF AGENDA (ROLL CALL VOTE NEEDED WHEN CHANGES MADE TO THE AGENDA)

APPROVAL OF CONSENT AGENDA

- A. Approve Minutes from the 3.4.2025 Commission Meeting.
- B. Approve Raffle for Valley City High School DECA on April 23, 2025 at Valley City High School.

Roll Call: Gulmon Bishop Magnuson Erickson Carlsrud

PUBLIC COMMENTS

Attorney General’s “A Citizen’s Guide to North Dakota Open Records & Open Meetings Laws” **A member of the public does not have the right to speak to the governing body at an open meeting. The public is only entitled to see and hear what happens at a meeting, and to record or broadcast those observations.*

- ✓ No personal attacks to persons present or not
- ✓ No inflammatory language used during time that you have the platform
- ✓ 5-minute maximum or as directed by the chair
- ✓ Thank you for participating in City Government.

ORDINANCE

- 1. Third and Final Reading of Ordinance 1169, an ordinance to amend and reenact Title 7, create and enact title 7.1, and repeal chapter 15-06 and section 17-04-23 of the Valley City Municipal Code related to use of the public rights of way. (City Attorney Martineck)

Roll Call: Magnuson Erickson Gulmon Bishop Carlsrud

RESOLUTION

- 1. Approve Resolution 2474, a Resolution Creating Paving Improvement District No. 130. (City Engineer)

Roll Call: Erickson Gulmon Bishop Magnuson Carlsrud

NEW BUSINESS

N1. Approve Monthly Bills for the City and Public Works in the Amount of \$1,573,274.00.

Roll Call: Bishop Magnuson Erickson Gulmon Carlsrud

NB2. Hear and Determine Sufficiency of Written Protests and Approve Annexation as Described in Resolution 2473. (City Attorney Martineck)

Roll Call: Gulmon Bishop Magnuson Erickson Carlsrud

CITY ADMINISTRATOR’S REPORT

CITY UPDATES & COMMISSION REPORTS

ADJOURN

CITY COMMISSION MEETING VALLEY CITY, NORTH DAKOTA

Tuesday, March 4, 2025

President Carlsrud called the meeting to order at 5:00 PM.

Members present: President Carlsrud, Commissioner Gulmon, Commissioner Bishop, Commissioner Erickson, Commissioner Magnuson

Others: City Administrator Crawford, City Attorney Martineck, Finance Director Klein, Police Chief Horner, Administrative Assistant Hintz.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Move Item N5. to Consent Agenda.

Commissioner Bishop moved to approve, seconded by Commissioner Magnuson.

Motion passed unanimously.

PUBLIC COMMENTS

Deedra Froemke brought up discussion on Ordinance 1169, does this pertain to Hidden Pond Trail?

Trevor Kamstra discussed communication regarding fines and communication in general

APPROVAL OF CONSENT AGENDA

A. Approve Minutes from the 2.14.2025 Special Commission Meeting and the 2.20.2025 Finance and Commission Meetings.

B. Approve the Site Authorization request for:

Updated Request - Valley City Hockey and Figure Skating Club at North 9 Bar and Grille

C. Approve the Raffle Permit requests for:

VCSU Foundation/VCSU Scholarship Auction Fundraiser on 4.11 at the Eagles

Disabled American Veterans Monthly Drawing at the Eagles, 7/2025 – 6/2026

Sheyenne Valley Friends of Animals on 4.19 at the Eagles

Mary Jones Benefit on 5.3 at the Eagles

D. Approve 2024-25 Contractor License for:

Roger Koble Contracting

Commissioner Bishop moved to approve, seconded by Commissioner Gulmon.

Motion passed unanimously.

ORDINANCE

Second and Final Reading of Ordinance 1169, an ordinance to amend and reenact Title 7, create and enact title 7.1, and repeal chapter 15-06 and section 17-04-23 of the Valley City Municipal Code related to use of the public rights of way.

Commissioner Magnuson moved to change as discussed and add to 3.18.25 agenda for reading and approval, seconded by Commissioner Erickson.

Motion passed unanimously.

Second and Final Reading of Ordinance 1170, an ordinance to amend and reenact chapter 11-08 of the Valley City Municipal Code related to zoning nonconformities.

Commissioner Bishop moved to approve, seconded by Commissioner Magnuson.

Motion passed unanimously.

NEW BUSINESS

Approve the Valley City-Barnes County Development Corporation request of \$45,000 to increase childcare capacity with funds sourced from the City Sales Tax dedicated to economic development.

Jennifer Feist with the VCBCDC explained the need for funds to help assist with the lack of childcare in the area. She is currently working with two new possible parties interested in addressing the supply of childcare issues. There will be a provision in the contract that the facility must remain operational for a minimum of 5 years or there is a “claw back” requiring repayment and they must be licensed.

Commissioner Gulmon moved to approve, seconded by Commissioner Magnuson.

Motion passed unanimously.

Approve revision to allocation of funds for “Back the Blue” grant money. These are remaining funds from the grant that was awarded in 2023 and must be allocated before March 24, 2025. Previously, \$11,000.00 was paid for retention bonuses and \$1000.00 for recruitment bonuses. The remaining balance will be paid towards retention bonuses.

Commissioner Bishop moved to approve, seconded by Commissioner Magnuson.

Motion passed unanimously.

Approve ND DWR Pre-Construction Cost Share Application for Preliminary and Design Engineering for Northwest Standpipe – Emergency Repairs.

Commissioner Gulmon moved to approve, seconded by Commissioner Erickson.

Motion passed unanimously.

Approve GMP Amendment to McGough’s Contract for the Valley City Public Works Building to be completed by Olaf Anderson in the amount of 1,635,532 for the Pre-Engineered Metal Building (PEMB).

Oliver Finneman with McGough discussed the process for bids, the need to get this structure ordered, there is a 3 to 4 month waiting period and that would really cut into prime construction season. He also explained that many local contractors were notified prior to the start of the build and will continue to be included in bids throughout the build process. If possible, the City would like to use local contractors as much as possible.

President Carlsrud opened the meeting to Public Comment again. Todd Ingstad shared his concerns over the cost and payment method for the new Public Works Building. Jon Aus shared his concern, from the stewardship and resources, was looking for justification of the monies being spent. All 4 Commissioners and President Carlsrud spoke in favor of the build. They explained that this didn’t just come up tonight but has been in discussion and the works since 2017. The estimate from 2018 was discussed and the increase in cost since. The reasoning for the new building and discussion on the condition of the current buildings. Why the increase in electrical rates over property taxes to help with the cost of the build. Electrical rates in general compared to neighboring communities. Employee safety and well-being. Equipment storage needs.

Commissioner Gulmon moved to approve, seconded by Commissioner Magnuson.

Motion passed unanimously.

CITY ADMINISTRATOR’S REPORT

City Administrator Crawford talked about the requests for more transparency. If there is a way that we can share more information than we already do, please reach out with your suggestions. Agendas, minutes and materials are all posted on the valleycity.us website for easy access. Notices are sent out to the Newspaper, posted on Facebook and Instagram and now we have an additional location, the Valley City App. Please let us know if you know of a way to get more of the public involved in our meetings.

Police Chief Horner wanted to remind all to be cautious with the snow melt, thaw and freezing. This causes ice to build and can be very dangerous. Please be aware.

City Engineer Peterson shared a map and discussed the proposed Seal Coat work to be done in 2025.

Commissioner Gulmon gave a report on City Finances and that the Sales Tax revenue was up about 6.9% last year. Online sales, Food & Beverage and the Occupancy taxes were all up this past year.

Commissioner Erickson wanted to remind all that he will gladly take your phone calls and answer your emails when he is available. If he is not able to answer, he will get back to you.

Commissioner Magnuson shared some history on the Public Works Building and why the rate increase was selected as the fairest way to collect funds. Please call anytime to talk about what is going on, get answers to your questions and to hear what is truly happening. Very open to discussing these issues with you directly.

Commissioner Bishop asked residents to call, text or email anytime and he will gladly talk or meet with you. He will not respond to Social Media comments. All of the Commissioners are open to conversations and want to do what they feel is truly best for the City of Valley City overall.

Mayor Carlsrud thank you to all who came to this meeting, we appreciate your presence and your thoughts. Thank you to the Employees for all the numerous projects that you are working on and prepping for spring. Thank you to Oliver and Rich from McGough, appreciate you explaining the project and processes. Thank you to the Commissioners for serving and for all the extra time you put in that people are not aware of.

ADJOURN

Meeting was adjourned at 6:25 P.M.

Attested to by:

Brenda Klein, Finance Director
City of Valley City

Dave Carlsrud, President of the
City of Valley City Commission



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL

GAMING DIVISION

SFN 9338 (9-2023)

Pd \$100 cash

Applying for (check one)

☒ Local Permit ☐ Restricted Event Permit*

Games to be conducted ☐ Raffle by a Political or Legislative District Party

☐ Bingo ☒ Raffle ☐ Raffle Board ☐ Calendar Raffle ☐ Sports Pool ☐ Poker* ☐ Twenty-One* ☐ Paddlewheels*

*See Instruction 2 (f) on Page 2. Poker, Twenty-One, and Paddlewheels may be conducted Only with a Restricted Event Permit. Only one permit per year.

LOCAL PERMIT RAFFLES MAY NOT BE CONDUCTED ONLINE AND CREDIT CARDS MAY NOT BE USED FOR WAGERS

ORGANIZATION INFO

Name of Organization or Group Valley City High School DECA		Dates of Activity (Does not include dates for the sales of tickets) April 23, 2025	
Organization or Group Contact Person Sheila Larson	E-mail sheila.larson@k12.nd.us	Telephone Number 701-840-2881	
Business Address 460 Central Ave N	City Valley City	State ND	ZIP Code 58072
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Valley City High School		County Barnes	
Site Physical Address 493 Central Ave N	City Valley City	State ND	ZIP Code 58072
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) Raffle winners announced on April 23, 2025			

PRIZE / AWARD INFO (If More Prizes, Attach An Additional Sheet)

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	(1) \$100, (1) \$200, (1) \$300, (1) \$400	\$1,000
Raffle	(1) \$250 + Minneapolis Family Fun Pkg.	\$ 750
Total (limit \$40,000 per year)		\$ \$1,750

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds Fundraiser for students to compete @ the DECA International Career & Development	
Does the organization presently have a state gaming license? (If yes, the organization is not eligible for a local permit or restricted event permit and should call the Office of Attorney General at 1-800-326-9240) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Has the organization or group received a restricted event permit from any city or county for the fiscal year July 1 - June 30 (If yes, the organization or group does not qualify for a local permit or restricted event permit) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Has the organization or group received a local permit from an city or county for the fiscal year July 1 - June 30 (If yes, indicate the total retail value of all prizes previously awarded) <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - Total Retail Value: \$1,750 (This amount is part of the total prize limit for \$40,000 per fiscal year)	
Is the organization or group a state political party or legislative district party? (If yes, the organization or group may only conduct a raffle and must complete SFN 52880 "Report on a Restricted Event Permit" within 30 days of the event. Net proceeds may be for political purposes.) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Printed Name of Organization Group's Permit Organizer Sheila Larson	Telephone Number 701-840-2881	E-mail Address sheila.larson@k12.nd.us
Signature of Organization Group's Permit Organizer 	Title DECA Advisor	Date 5/6/25

conference April 15-20 2025

ORDINANCE NO. 1169

An ordinance to amend and reenact Title 7, create and enact title 7.1, and repeal chapter 15-06 and section 17-04-23 of the Valley City Municipal Code related to use of the public rights of way.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF VALLEY CITY, BARNES COUNTY, NORTH DAKOTA, PURSUANT TO THE HOME RULE CHARTER OF THE CITY OF VALLEY CITY, NORTH DAKOTA:

Section 1. Amendment. Title 7 of the Valley City Municipal Code is amended and reenacted as follows:

Title 7 BUILDINGS AND SIGNS

CHAPTER 7-01. BUILDINGS

Section 7-01-01. Building permits—Required.

The owner, or authorized agent, of any lot or tract within the city, or within area adjoining the city over which the city has zoning jurisdiction, must obtain a written permit from the Building Inspector prior to erecting, constructing, enlarging, altering, repairing, moving, demolishing, or changing the occupancy of any building or structure of any description, or prior to causing any such work to be done.

Section 7-01-02. Building permits—Application.

Written application for the building permit required by section 7-01-01 must be made by the owner of the premises or authorized agent on a form prescribed by the Building Inspector.

When requested by the Building Inspector, an application must be accompanied by a site plan prepared by a licensed engineer, architect, and/or surveyor, along with construction documents, specifications, and other documents that describe the proposed structure(s) and/or property in sufficient detail to ensure compliance with applicable rules and regulations.

Section 7-01-03. Building permits—Fees.

Upon making an initial application for a permit under this article, each applicant shall pay to the city a permit fee according to the fee schedule adopted by the City Commission by resolution.

Section 7-01-04. Building permits—Issuance.

The permit required by section 7-01-01 shall be in writing, issued and signed by the Building Inspector or authorized designee. No building permit will be issued unless a plat of the property has been approved and recorded in accordance with Title 16, and the proposed structure and use complies with Title 11. All work must be in conformance with the rules and regulations adopted in section 7-01-06, unless in conflict with this Code.

Section 7-01-04.1. Building permits—Violations and enforcement.

If any work described in this chapter commences without a building permit, upon verification, the Building Inspector will cause written notification to be made to the property owner and occupant by registered/certified mail with return receipt. A \$500.00 fee will be immediately assessed to the property owner. The owner/occupant of the property must cease work and reply to the Building Inspector within five business days from receipt of the notice. Work may not continue until a building permit is issued. If the owner/occupant does not cease work, fees will be assessed at \$200.00 a day from the date of receipt of the notice. If the Building Inspector determines that a conditional use permit or variance was also required pursuant to chapter 11-07, an additional \$500.00 fee will be immediately assessed to the property owner. A property owner assessed fees under this section may appeal such assessment to the Planning and

Zoning Commission if written notice of appeal is delivered to the City Auditor within 30 days of notice of the assessment. The decision of the Planning and Zoning Commission shall be final. If fees are not paid within 30 days of assessment or, if appealed, within 30 days of a final decision of the Planning and Zoning Commission, fees may be assessed against the premises where the violation occurred, to the extent permitted by law, and collected and returned in the same manner as other municipal taxes.

Section 7-01-05. Duties and powers of Building Inspector.

The Building Inspector, or authorized designee, is authorized and directed to enforce the provisions of the State Building Code as adopted by the City of Valley City. The Building Inspector has the authority to render interpretations of the State Building Code and to establish policies and procedures to clarify the application of its provisions which may be presented to the Board of City Commissioners for its approval by resolution. The Building Inspector shall be responsible for applications and permits, notices and orders, and inspections including a right of entry at reasonable times to enforce and assure compliance with the State Building Code.

Section 7-01-06. Building code.

The City of Valley City shall follow the North Dakota Building Code with its amendments to the latest International Code.

Section 7-01-06.1. Property maintenance code.

The International Property Maintenance Code, as amended from time to time, is adopted herein by reference and unless superseded by this Code shall constitute the minimum requirements and standards for residential and nonresidential premises, structures, equipment and facilities for the purpose of providing a reasonable level of health, safety, property protection, and general welfare insofar as they are affected by the occupancy and maintenance of said structures and premises.

Section 7-01-07. Dangerous buildings and structures—Defined.

Any building, structure, or premises which has any or all of the following conditions or defects shall be deemed a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property, or safety of the public or the building's occupants are endangered:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

Section 7-01-08. Standards for repair, vacation, or demolition.

The following standards shall be followed in substance by the Building Inspector or Fire Chief in ordering repair, vacation, or demolition:

1. If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.
2. If the dangerous building is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants, it shall be ordered to be vacated.
3. In any case where a dangerous building is 50 percent damaged, decayed, or deteriorated from its original value or structure, or where the cost of reconstruction or restoration shall be in excess of 50 percent of the value of the building, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer be in violation of the terms of this chapter, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this chapter, or any city ordinance or state statute, it shall be demolished.
4. All dangerous buildings are declared to be public nuisances, and shall be repaired, vacated, or demolished as provided in this chapter.

Section 7-01-09. Duties of Fire Chief or Building Inspector.

The Chief of the Fire Department or the Building Inspector (the "Official") shall:

1. Inspect, or cause to be inspected, semiannually, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial manufacturing or loft buildings for the purpose of determining whether any conditions exist which render such places a dangerous building.
2. Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this chapter.
3. Inspect any building, wall, or structure reported by the Fire or Police Departments of this city as probably existing in violation of the terms of this chapter.
4. Issue a notice and order in writing to the owner, occupant, lessee, mortgagee, and all other persons having an interest in such building, as shown by the records in the Office of the County Recorder, that contains the following:
 - a. The street address and legal description sufficient for identification of the premises upon which the building is located.
 - b. A statement that the Official has found the building to be dangerous, with a brief and concise description of the conditions found to render the building dangerous under this chapter.
 - c. A statement of the action required to be taken:
 - i. If the Official has determined that the building or structure must be repaired, the order shall require

- that all required permits be secured therefor and the work physically commenced within a time not to exceed 60 days from the date of the order and completed within such time as the Official shall determine is reasonable under the circumstances.
- ii. If the Official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the Official to be reasonable.
 - iii. If the Official has determined that the building or structure must be demolished, the order shall require that the building be vacated within a reasonable time not to exceed 60 days, that all required permits be secured therefor within 60 days from the date of the order, and that the demolition be completed within such time as the Official shall determine is reasonable under the circumstances.
5. Report to the City Administrator and Board of City Commissioners any noncompliance with the foregoing notice.
 6. Appear at all hearings conducted by the Board of City Commissioners and testify as to the conditions of dangerous buildings.
 7. Place a notice on all dangerous buildings reading as follows: "This building has been found to be a dangerous building by the City Building Inspector or Fire Chief. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given to the owner, occupant, lessee and/or mortgagee of this building and all other persons having an interest in said building as shown by the records of the County Recorder. It is unlawful to remove or deface this notice until such notice is complied with."
 8. Place any other suitable notice or notices on a such building in order to warn of dangers presented by the conditions of the building or in order to advise that the building must remain vacant until it is made safe or demolished.

Section 7-01-09.1. Right of entry.

Absent emergency circumstances, the city shall make reasonable efforts to obtain consent from the owner or other person in possession of or in charge of a property before entering a building, structure or area enclosed with a secure fence or other barrier for the purpose of inspecting the property as may be required to enforce this ordinance. If there is not an emergency and consent is denied, the city shall seek an administrative search warrant under N.D.C.C. Ch. 29-29.1, in order to conduct the inspection.

If emergency circumstances exist under which prior application for an administrative search warrant is not feasible without imminent danger to health, welfare or safety of occupants, visitors or the general public, the designated city official may enter the building, structure or enclosed area without consent or a warrant to inspect and verify the nature, severity, and extent of the violation and to abate such conditions giving rise to the imminent danger.

Service and execution of an administrative search warrant shall be as provided in N.D.C.C. Ch. 29-29.1, provided, however, if the premises appear to be unoccupied or abandoned and the owner or other person in possession or in charge of the property is unknown or not readily available, the designated city official may enter the building, structure or other premises for the purpose of executing an administrative search warrant without prior service on the owner or person in possession of or in charge of the property. In such cases, the building official shall mail copies of the administrative search warrant, affidavit and return filed with the court to the owner of record at the owner's last known address.

Section 7-01-09.2. Duties of the Board of City Commissioners—Appeal.

The Board of City Commissioners shall:

1. Upon receipt of a report of the Building Inspector or Fire Chief as provided for in section 7-01-09, give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the County Recorder, to appear before the Board on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the notice and order provided for in section 7-01-09.
2. Hold a hearing and hear such testimony as the Building Inspector or Fire Chief, or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the County Recorder shall offer relative to the dangerous building.

3. Make written findings of fact from the testimony offered pursuant to subsection 2 as to whether or not the building in question is a dangerous building within the terms of section 7-01-07.
4. Issue an order based upon findings of fact made pursuant to subsection 3. commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the County Recorder to repair, vacate or demolish any building found to be a dangerous building within the terms of this chapter and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said dangerous building.
5. Serve upon the owner, occupant, mortgagee, lessee and all other persons having an interest in any building ordered to be repaired, vacated or demolished, a copy the Board's order.

Right to appeal. The owner, occupant, mortgagee, lessee, or any other person having an interest in a dangerous building shall have 30 days from the date of service of any order issued by the Board under this chapter in which to appeal from such order to the District Court or to take such other legal steps to enjoin the enforcement of such order. Any person desiring to appeal shall file an undertaking in the sum of at least \$1,000.00 to be approved by the Finance Director, and conditioned that the appellant will prosecute the appeal without delay and will pay all costs that may be adjudged against such appellant in the District Court. Such undertaking shall be payable to the city. Except for an order to vacate, enforcement of an order shall be stayed during the pendency of a proper and timely appeal.

Section 7-01-09.3. Failure to comply with decision of the Board of Commissioners.

If any person to whom an order of the Board is directed fails to comply with the order or fails to appeal to the District Court within 30 days from the date of service of the Board's order,

1. The Building Inspector or Fire Chief shall cause the building described in such order to be vacated by posting at each entrance thereto a notice reading: "Dangerous Building Do Not Occupy. It is unlawful to occupy this building, or to remove or deface this notice."
2. No person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs, demolition, or removal ordered by the Board have been completed and a certificate of occupancy has been issued pursuant to the provisions of the Building Code.
3. The city through its officers and employees may cause such building or structure to be repaired or demolished as ordered by the Board.
4. The costs of any such repair, vacation, or demolition shall be assessed back against the property in the manner provided by law, or in the alternative cause said costs of repair, vacation, or demolition to be recovered in a suit at law against the owner or other proper party.

Upon written request from the person required to conform to the Board's order, and by agreement of such person to comply with the order, the Building Inspector or Fire Chief, with approval of the City Administrator, may grant an extension of time, not to exceed 120 days, within which to complete repairs or demolition, if the Building Inspector or Fire Chief determines that such an extension will not create or perpetuate a situation imminently dangerous to life or property. The authority to extend time is limited to physical repair or demolition of the building and does not in any way affect the time to appeal the Board's order.

Section 7-01-09.4. Service of notices and orders—Owner absent from City.

Service of any notice or order required by this chapter shall be made either personally or by mailing a copy of such notice or order by registered or certified mail, return receipt requested, to each person entitled to notice at the address appearing on the city assessment roll or as known to the Building Inspector or Fire Chief. If no such address so appears or is known to the Official, or where the owner, occupant, lessee, mortgagee, or any other person having an interest in the building is absent from the city, the notice or order provided for herein shall be sent by registered or certified mail to such individual's last known address, and a copy of the notice or order shall be posted in a conspicuous place on the dangerous building involved in the proceedings. The failure of any individual to receive the notice or order shall not affect the validity of any proceedings or action taken under this chapter.

Section 7-01-09.5. Violations—Penalty for disregarding notices or orders.

The owner of any dangerous building who shall fail to comply with any notice or order to repair, vacate or demolish said building given by any person authorized by this chapter to give such notice or order shall be guilty of an infraction and upon conviction thereof shall be fined not exceeding \$1,000.00 for each offense and every day subsequent to such notice in which the said owner shall fail to comply with any notice or order as stated shall be deemed a separate offense.

The occupant or lessee in possession who fails to comply with any notice to vacate or who fails to repair said building in accordance with any notice given as provided for in this chapter shall be guilty of an infraction and upon conviction thereof shall be fined not exceeding \$1,000.00 for each offense and every day subsequent to such notice in which the said occupant or lessee shall fail to comply with any notice or order as above stated, shall be deemed a separate offense.

Any person who obstructs, impedes or interferes with any officer, employee, contractor or authorized representative of the city or with any person who owns or holds any estate or interest in any building which has been ordered demolished in accordance with the procedure contained herein shall be guilty of an infraction and upon conviction thereof shall be fined not exceeding \$1,000.00 for each offense.

Any person removing or defacing a posted notice provided for in this chapter shall be guilty of an infraction and upon conviction shall be fined not exceeding \$1,000.00 for each offense.

Section 7-01-10. Building numbering--Plan established.

All buildings in the city shall be numbered in accordance with the ordinances of the city as shown on the maps and plans prepared by the public works department showing the system of numbering of such buildings adopted in the ordinances of the city, which map is now or will be filed in the offices of the City Auditor and Public Works Department. In particular, each ten feet of the block frontage shall have a number assigned by the Public Works Department, the numbers for each block to commence with 01 on the left and 02 on the right side of the street or avenue going from the base line, such numbering to be prefixed by the proper 100 figure to designate the distance in blocks according to GIS positioning, in the block adjoining the base line on each side of the base line. A building shall be identified by a number based on its physical location relative to the roadway from which the main entrance of the building is accessed. Each portion of a building containing a separate dwelling unit, or commercial or industrial establishment, shall be assigned an apartment or suite, number. The mailing address for a building with multiple dwelling units, or business or industrial establishments, is the combination of the building number and the apartment or suite number.

Section 7-01-11. Building numbering—Base lines.

The base lines or streets used as the units for numbering shall be Main Street, extended both east and west for streets lying north and south of Main Street, and for the purpose of the numbering of buildings Main Street shall be counted and numbered as street number one, and the base line or street used as the unit for numbering of buildings shall be Central Avenue, formerly Fifth Avenue, for all avenues lying east and west of Central Avenue, and for the purpose of numbering, Central Avenue shall be counted and numbered as Avenue number one. The numbering shall commence at Main Street and Central Avenue, respectively, as units and extend in both directions therefrom in each case.

Section 7-01-12. Building numbering—Specifications and placement.

1. Purpose. To establish regulations for the identification of buildings by fire, police, and other emergency response personnel, in a manner that will protect the public's health, safety, and welfare and maintain the aesthetic integrity of the community.
2. It shall be the duty of the owner and occupants of every new and existing building in the city to have placed thereon, in a place visible from the street fronting the property, Arabic numbers or letters showing the address identification of the building. Numbers shall not be spelled out. Each character must be a minimum of four inches high with a minimum stroke width of one-half inch.
3. Where required by the Fire Chief or designee, address identification shall be provided in additional approved locations to facilitate emergency response.

4. Where access is by means of a private road and the building address cannot be viewed from the public right of way, a monument, pole, sign, or other means, in a form approved by the city, shall be used to identify the structure.
5. Address identification markers must be legible and maintained in good condition.
6. A violation of this section is an infraction.

In addition to the foregoing penalty, upon the failure of the property owner to comply with the provisions of this section, and upon proper notice and hearing, the Fire Chief or designee is authorized to enter upon any property to bring the building into compliance. The property owner may be billed for the cost of bringing the building into compliance, along with a \$50.00 administrative fee. If payment is not made when due, it may be assessed against the premises where the work is done and collected and returned in the same manner as other municipal taxes are assessed, certified, collected, and returned.

CHAPTER 7-02. SIGNS

Section 7-02-01. Definitions.

The following terms, as used in this chapter, shall have the meanings stated as follows:

Address sign means a sign communicating only a street address.

Advertising sign means a sign used to advertise products, goods, or services not exclusively related to the premise on which the sign is located.

Alteration means any major alteration to a sign excluding routine maintenance, painting, or change of copy.

Area identification sign means a freestanding sign identifying the name of a single or two-family residential subdivision consisting of 20 or more lots; a residential planned unit development; a multiple residential complex consisting of three or more independent operations; a single business consisting of three or more separate structures; or a manufactured home court.

Awning means a hood or cover projecting from the wall of a building, and which may be retracted, folded, or collapsed against the face of a supporting building.

Banner sign (permanent) means a sign constructed of canvass or other durable fabric that is enclosed within a cabinet or frame and is permanently mounted to the wall of a building.

Banners means attention getting devices which resemble flags and are of cloth or plastic-like consistency.

Beacon means any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also any light with one or more beams that rotate or move.

Bench sign means a sign affixed to a bench.

Billboard means an advertising sign.

Building facade means that portion of the exterior elevation of a building extending from grade to the top of a parapet wall or eaves, and the entire width of the building elevation.

Business sign means a sign identifying a business or group of businesses, either retail or wholesale, or any sign identifying a profession or used in the identification or promotion of any principal commodity or service, including entertainment, offered or sold upon the premises where the sign is located.

Campaign sign means a temporary sign promoting the candidacy of a person running for a governmental office, or promoting an issue to be voted on at a governmental election.

Canopy sign means a message or identification affixed to a canopy or marquee that provides a shelter or cover over the approach to any building entrance.

Construction sign means a sign at a construction site identifying the project or the name of the architect, engineer, contractor, financier, or other involved parties.

Directional sign means a sign erected with the address and/or name of a business, institution, church, or other use or activity, plus directional arrows or information on location.

Directory sign means an exterior informational wall sign identifying the names of businesses served by a common public entrance in a shopping center or office buildings.

Flashing sign means an illuminated sign upon which the artificial light is not kept constant in terms of intensity or color when the sign is illuminated.

Freestanding sign means a self-supported sign not affixed to another structure.

High impact sign means any high profile sign such as mobile electronic message centers or reader boards, automatically changing sign faces, vehicles and equipment with sound equipment and/or significant signage, and other high impact business and/or events promotion schemes.

Identification sign means a sign which identifies the business, owner, manager, resident, or address of the premises where the sign is located and which contains no other material.

Illuminated sign means a sign illuminated by an artificial light source either directed upon it or illuminated from an interior source.

Informational sign means any sign, including gas price and menu board signs, giving information to employees, visitors, or delivery vehicles, but containing no advertising or identification.

Institutional sign means a sign identifying the name and other characteristics of a public or quasi-public institution on the premises where the sign is located.

Integral sign means a sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets, and the like when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type of construction and made an integral part of the structure.

Logo means one or more letters, symbols, or signs used to represent a name or trademark of a business or other entity. A logo sign is also considered an identification sign.

Marquee means a canopy.

Menu board means any sign containing a food price list for restaurant customers, but containing no advertising or identification.

Monument sign means a sign where the extent of the sign structure is attached to the ground or a foundation in the ground; and where there are no poles, braces, or other visible means of support other than attachment to the ground.

Motion sign means a sign which revolves, rotates, has moving parts or gives the illusion of motion.

Multiple tenant site means any property or business site that contains more than one business, and each business has a separate lease.

Nonprofit organization means a corporation formed under North Dakota Statutes, a church or community, or civic group.

Parapet means a low wall which is located on a roof of a building.

Pennant means any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Portable sign means a portable sign that shall include, but not be limited to: Signs constructed so as to be movable, either by skids, wheels, truck, or other conveyance; any sign which does not have a permanent foundation or is otherwise permanently fastened to the ground, excluding those signs defined under "high impact signs". When on a trailer, the removal of the wheels or undercarriage does not place the sign in another category, nor does the anchoring of the sign by means of concrete blocks, sandbags, or other types of temporary anchors.

Projecting sign means a sign, other than a wall sign, which is affixed to a building and perpendicular from the building wall.

Public entrance means a passage or opening which affords entry and access to the general public.

Public entrance (common) means a public entrance providing access for the use and benefit of two or more tenants or building occupants.

Public right-of-way is a term used to describe "the legal right, established by usage or grant, to pass along a specific route through grounds or property belonging to another", or "a path or thoroughfare subject to such a right".

Reader board means a sign with an electronic changing message and/or animation to create a special effect or scene. Electronically controlled time and temperature signs are included.

Real estate sign means a business sign placed upon property advertising that particular property for sale or rent.

Roof line means the top of the coping or when the building has a pitched roof, the intersection of the outside wall with the roof.

Roof sign means a sign erected, constructed or attached wholly, or in part upon or over the roof of a building.

Sign means use of words, numerals, figures, devices, or trademarks by which anything is made known such as individuals, firms, processions, businesses, services, or products visible to the general public.

Sign area means the area within the marginal lines of the surface of a sign, which bear the advertisement, or in the case of message, figures, or symbols attached directly to a building or sign structure, that area which is included in the smallest rectangle or series of geometric figures used to circumscribe the message, figure, or symbol displayed thereon.

Sign, maximum height of means the vertical distance from the grade to the top of the sign.

Sign structure means the supports, uprights, bracing, and framework for a sign, including the sign area.

Street frontage means the proximity of a parcel of land to the streets. A corner lot has two or more frontages, but may use only one side for the purpose of calculating allowable sign area. It may be the longest side.

Temporary sign means a sign unless otherwise defined as a "portable sign" or "high impact sign", any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light materials, and wood or metal signs less than 12 square feet in area, which does not have a permanent foundation or is otherwise permanently fastened to the ground, and which is erected or displayed for a limited period of time shall be considered a temporary sign.

Wall sign means a sign affixed to the exterior wall of a building, and which is parallel to the building wall. A wall sign does not project more than 12 inches from the surface to which it is attached, nor extend beyond the top of a parapet wall.

Wall graphics means a sign painted directly on an exterior wall.

Window sign means a sign affixed to or inside of a window in view of the general public. This does not include merchandise on display.

Section 7-02-02. Temporary signs.

The use of temporary signs such as banners, inflatable signs, sidewalk painting, tethered balloons, and similar devices may be erected on the premises of an establishment for special events, provided that such signs may not be displayed for more than 30 calendar days within any four-month period. Violations for temporary signs must be corrected within seven days of written notification. Banners may be considered permanent signs provided they are constructed of canvass or other durable fabric enclosed within a cabinet or frame which is permanently and entirely mounted on the wall of a building and comply with the sign regulations set forth herein.

Section 7-02-03. Portable signs.

Prior to the placement of a portable sign, a portable sign permit must be obtained from the Building Inspector. A portable sign permit may be granted for a period not to exceed 14 days at a time, except for municipal construction zones which impact customer access to a business or use, whereupon the Building Inspector may authorize extended display periods. Upon removal of the portable sign, it must be at least 30 days before another permit may be issued at

that location for the same business or use, provided that portable signage on the site does not exceed 56 days within one calendar year for the same business or use. Portable sign permits shall be issued provided the following:

1. The portable sign is located in a Business or Industrial Zoning Use District.
2. The portable sign is located upon the same parcel which the advertisement/notice is intended, unless advertising a community-wide event, as determined by the Building Inspector.
3. No portable sign may exceed 48 square feet in area, with the sign face not to exceed six feet in height or eight feet in width, and may not exceed eight feet in overall height.
4. No portable sign may be placed upon the public right-of-way without approval of the Building Inspector. Portable signs shall meet the setback requirements for freestanding signs for Corridor Overlay Districts and underlying zoning districts.
5. No portable sign placed within 100 feet of an area zoned for residential use may have blinking, flashing, or fluttering lights or other illuminating devices that have a changing intensity, brightness, or color.
6. No part of a portable sign may be located within the 30-foot sight triangle measured from the point of curvature of the intersecting street curbs.
7. Notwithstanding any other provision of this ordinance, no sign may be placed in a manner as to impede vision within a 24-foot sight triangle of the intersecting curb line of a driveway, entrance, or exit. This triangle may be increased by the Building Inspector when deemed necessary for traffic safety.
8. Only one portable sign may be placed upon a property or development complex site at any given time, except in the case of multiple tenant sites consisting of six or more businesses or uses, where two portable signs will be allowed on the parcel at any given time.
9. All portable signs must be kept in good repair and in proper state of maintenance, including, but not limited to replacing lamps, replacing or repairing the sign face, replacing trim, etc. If the Building Inspector finds that a sign is not in a proper state of repair, the city may after ten days of written notification, not issue a permit for the specific sign for any location.

Section 7-02-04. High impact signs.

Prior to the placement of a high impact sign, a high impact sign permit must be obtained from the Building Inspector. A high impact sign permit may be granted for a period not to exceed ten consecutive days at a given site for a business use, and no more than 20 total days within one calendar year. High impact sign permits shall be issued providing the following:

1. The high impact sign is located in a Business or Industrial Zoning Use District.
2. The high impact sign is located upon the same parcel, which the advertisement/notice is intended, unless advertising a community-wide event, as determined by Building Inspector.
3. No high impact sign may be placed upon the public right-of-way without approval of the Building Inspector. Portable signs shall meet the setback requirements for freestanding signs for Corridor Overlay Districts and underlying zoning districts.
4. No high impact sign placed within 100 feet of an area zoned for residential use may have blinking, flashing, or fluttering lights, or other illuminating devices that have a changing intensity, brightness, or color.
5. No part of a high impact sign may be located within the 30-foot sight triangle measured from the point of curvature of the intersecting street curbs.
6. Notwithstanding any other provision of this ordinance, no sign may be placed in a manner as to impede vision within a 24-foot sight triangle of the intersecting curb line of a driveway, entrance, or exit. This triangle may be increased by the Building Inspector when deemed necessary for traffic safety.
7. Only one high impact or portable sign may be on a property or business site during any given period, except that multiple tenant sites may have up to two portable signs or high impact signs, or a combination thereof, during any given period, provided the content of the sign changes for each business per the regulations outlined in this section.

8. In installing or removing the high impact sign, access cannot be across a boulevard, sidewalk, or bike path, unless an established driveway is present and used.
9. No sign or sign structure shall be closer to any side lot line than a distance equal to one-half the minimum required yard setback. Nor shall any sign project onto any public street or alley, or approved private street. No sign shall be placed within any drainage or utility easement.
10. No sign or sign structure shall be erected or maintained that prevents free ingress or egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.
11. A freestanding sign or sign structure constructed so that the faces are not back to back, shall not have an angle separating the faces exceeding 20 degrees unless the total area of both sides added together does not exceed the maximum allowable sign area for that district.
12. Signs in residential districts and signs facing residential districts shall not be illuminated unless approved as a conditional use.
13. Except for farm buildings, at least one address sign identifying the correct property number as assigned by the city shall be required on each principal building in all districts. The number shall be at least three inches in height.
14. Illegal signs which are located anywhere within any portion of any public right-of-way may be confiscated without notice by any City Official or authorized designee. These signs may be recovered by the owner upon payment of a fine as imposed by the City Commission.
15. Reader boards shall be reviewed by various city departments to determine if such sign may create a nuisance or traffic hazard because of lighting glare, focus, animation, or flashing. In the event that such sign is determined to potentially constitute a nuisance or traffic hazard, the sign shall be reviewed as a conditional use.

Section 7-02-05. Signs not requiring permit.

The following signs are allowed without a permit; however are included within the allowable sign area, unless otherwise indicated:

1. *Public signs.* Signs of a public, noncommercial nature, including safety signs, directional signs to public facilities, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when erected by or on behalf of a public official or employee in the performance of official duty.
2. *Identification signs.* Identification signs not exceeding one square foot for single and two-family structures and 16 square feet for multiple family structures.
3. *Informational signs.* Informational signs not exceeding 24 square feet. One informational sign shall be allowed for each business and is not included within the allowable sign area, provided it does not exceed 24 square feet and is fastened to an existing sign structure or building, or is a menu board for a restaurant.
4. *Directional signs.*
 - a. *On-premise signs.* Shall not be larger than four square feet. The number of signs shall not exceed four unless approved by the Planning and Zoning Commission, and shall not be included within the allowable signage.
 - b. *Off-premise signs.* Shall be limited to situations where access is confusing and traffic safety could be jeopardized or traffic could be inappropriately routed through residential streets. The size of the sign shall be approved by the Building Inspector and shall contain no advertising.
5. *Campaign signs.* Campaign signs not exceeding 32 square feet for any one sign, or for all signs on any lot. The sign must contain the name of the person responsible for such sign, and that person is responsible for its removal. Signs may not be posted in locations where traffic and public safety are compromised.
6. *Flags and insignia.* Flags and insignia of any government except when displayed in connection with commercial promotion.
7. *Holiday signs.* Signs or displays which contain or depict a message pertaining to a religious, national, state, or local holiday and no other matter, and which are displayed for a period not to exceed 30 days in any calendar year.
8. *Construction/Development signs.* A non-illuminated construction or development sign confined to the site of the construction, alteration, repair, or development. Such sign must be removed within two years of the date of

issuance of the first building permit on the site or when the particular project is completed, whichever is sooner, unless said sign is intended to be a permanent identification sign for the development and is approved as a conditional use.

9. *Roadside market signs.* Signs advertising produce grown and sold on the premises on which they are located, provided such signs shall not exceed 32 square feet in area or be displayed for a period exceeding six months of any calendar year.
10. *"For Sale" and "To Rent" signs.* "For Sale" and "To Rent" signs shall be permitted subject to the following regulations:
 - a. *Six or less residential dwelling units.* The following applies to the "for sale" or "for rent" of a single-family residence, or where six or less dwelling units (or lots for residential development) are for sale or rent: No more than one such sign per lot, except on a corner lot two signs, one facing each street, shall be permitted. No such signs shall exceed 16 square feet in area, or be illuminated. Each such sign must be devoted solely to the sale or rental of the property being offered and must be removed immediately upon the sale or rental of the property. Each sign must be placed only upon the property offered for sale or rent.
 - b. *Seven or more residential dwelling units.* Where more than six dwelling units (or lots for residential development purposes) are offered for sale or rental by the same party, signs advertising such sale or rental may be constructed therefore in any district. There shall be permitted one sign facing each public street providing access to the property being offered. Each such sign shall not exceed 24 square feet in area; shall be located at least 100 feet from any preexisting home; and shall be removed within one year from the date of building permit issuance, or when less than six units remain for sale or rent, whichever is less. Said sign shall fully comply with the setback requirement for the zoning district in which the property is located.
 - c. *Industrial or commercial property.* In the event of an industrial or commercial sale or rental of real property, there shall be permitted one sign facing each public street providing access to the property being offered. Each sign shall not exceed 32 square feet in area for signs located within 50 feet of the front property line, or 64 square feet in area if located 50 or more feet from the front property line, and must be devoted solely to the sale and rental of the property being offered and must be removed immediately upon the sale or rental of the last property offered at that location. Said sign may not be located closer to the property line than 50 percent of the setback required within the particular zoning district in which the property is located.
 - d. *Rummage (garage) sale signs.* Rummage sale signs shall not be posted until three days before the date of the sale and shall be removed within one day after the end of the sale and shall not exceed six square feet. Rummage sale signs shall not be located in any public right-of-way, or on utility poles or equipment.
 - e. *Signs relating to official local, state, or federal government agencies and city entrance signs.*
 - f. *Window signs.* Window signs shall not exceed 50 percent of the total glass area of the face of the building on which the window in which they are displayed and shall not be included within the allowable sign area.
 - g. *Small signs.* Small signs which do not exceed one square foot in area shall not be counted as part of the allowable sign area, provided the signs are not part of a larger sign scheme for the building or property.
 - h. *Pennants.* Pennants may be erected on the premises of an establishment in commercial and industrial zoning districts, which are not in the "Corridor Overlay District. Pennant displays must be properly maintained as to not create a safety hazard, nor shall they detract from the character of adjacent properties and other property in the district. The rope, wire, or string used to display the pennants must be fastened securely and remain taut.

Section 7-02-06. Prohibited signs.

The following signs are prohibited:

1. Off-premise advertising signs except approved signs within a commercial or industrial planned unit development, advertising businesses therein.
2. Advertising or business signs on or attached to equipment such as semi-truck trailers or motor vehicles where signing is a principal use of the equipment on either a temporary or permanent basis. Such signs may be used for special events on site and may not be displayed for more than 14 calendar days within any four-month period.
3. Beacon, motion, and flashing signs, permanent or temporary, except reader boards, time and temperature signs, and barber poles.

4. Roof signs. Except that a business sign may be placed on the fascia or marquee of a building, provided it does not extend above the highest elevation of the building, excluding chimneys.
5. Business signs which advertise an activity, business, product, or service no longer produced or conducted on the premises upon which the sign is located. Where the owner or lessor of the premises is seeking a new tenant, such signs may remain in place for not more than 30 days from the date of vacancy.
6. Graffiti.
7. Portable signs, banners, inflatable signs, tethered balloons, and similar devices except as provided in this chapter.
8. Signs which are tacked on bridges, fire hydrants, official public signs, trees, fences, utility poles, or in any portion of a public right-of-way; temporary signs fastened to sign structures, parking lot light poles, or other structures; and temporary signs secured by wires, stakes, or weights.
9. Bench signs except by special permit of the Building Inspector.
10. Home occupation signs except as part of an identification sign for the residence, which does not exceed one square foot in area and is mounted flush against the buildings.
11. Pennants within the "Business District."

Section 7-02-07. Inspection.

All signs for which a permit is required shall be subject to inspection by the Building Inspector or authorized agent. The Building Inspector may order the removal of any sign that is not maintained in accordance with the maintenance provisions of this chapter.

Section 7-02-08. Permit, application, variance, and commission approval.

1. Except as provided in sections 7-02-05 and 7-02-06, is unlawful for any person to erect, construct, alter, rebuild, or relocate any sign or structure until a permit has first been issued by the city.
2. *Sign application.* The following information for a sign permit shall be supplied by the applicant if requested by the city:
 - a. Name, address, and telephone number of person making application.
 - b. Name, address, and telephone number of person owning sign.
 - c. A site plan to scale showing the location of lot lines, building structures, parking area, existing and proposed signs, and any other physical features. All signs on the property shall be shown.
 - d. Plans, location and specifications and method of construction, and attachment to the buildings or placement method in the ground.
 - e. Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and City Code provisions.
 - f. Written consent of the owner or lessee of any site on which the sign is to be erected.
 - g. Any electrical permit required and issued for the sign.
 - h. Such other information as the city shall require, to show full compliance with this and all other laws and City Code provisions.
3. *Permit issued if application is in order.* The Building Inspector, upon filing of an application for a permit, shall examine such plans, specifications, and other data and the premises upon which it is proposed to erect the sign. If it appears that the proposed structure is in compliance with all requirements of this chapter and all other laws and the City Code provisions, the permit shall be issued. If the work authorized under a permit has not been completed within 60 days after the date of issuance, the permit shall be null and void.
4. *City Commission approval.* When this chapter requires City Commission approval for a sign, the application shall be processed in accordance with the procedural and substantive requirements of the Zoning Chapter for a conditional use permit.

5. *Variances.* A variance from the terms of this chapter may be granted upon application to the Planning and Zoning Commission and in accordance with the procedural and substantive requirements of section 11-07-07.
6. *Fees.* Fees for review and process of sign permit applications and variance requests shall be imposed in accordance with the fee schedule established by City Commission resolution.
7. *Licenses for portable or high impact signs.* It shall be unlawful for any person, firm, or entity to display a portable sign or high impact sign within the zoning jurisdiction of the City of Valley City without first having obtained a permit for such purpose. The Building Inspector shall approve a permit for the owner of the sign annually. Said permit shall terminate on December 31st of the permitting year. Permit fees shall be imposed in accordance with the fee schedule established by Commission resolution.
8. *Suspension or non-renewal of license.* The license granted under this section may be suspended or revoked for violation of any of the provisions of the Valley City Sign Regulations as follows:
 - a. *Initial violation—Warning.* Upon a finding by the Building Inspector of an initial violation of this chapter, a warning by written notice shall be given by the Building Inspector that the licensee's license is subject to a fine and license suspension if subsequent violations occur within a period of 12 months from the date of violation of the first offense.
 - b. *Second violation—Fine.* Upon a finding by the Building Official of a second violation of this chapter within 12 months from the first violation, a written notice shall be given to the licensee by the Building inspector and an administrative fine of \$200.00 imposed. The licensee shall have a period of 30 days to make payment from the date of the notice.
 - c. *Third or subsequent violation.* Upon a third or additional violation within a period of 12 months from the date of violation of the first offense, a written notice shall be given to the licensee by the Building Inspector and an administrative fine of \$500.00 imposed. In addition, the licensee shall have his or her license revoked for a period of 12 months from the date of the last violation. Once revoked, a licensee may not renew their license for a period of 12 months from the date of revocation. The licensee shall have a period of 30 days to make payment from the date of the notice.
 - d. Once revoked, a licensee may not renew their license for a period of 12 months from the date of revocation.
 - e. Nothing in this section shall limit the authority of the City Commission to impose a fine or penalty or to revoke or to cause a forfeiture of a permit.

Section 7-02-09. Enforcement.

This chapter shall be administered and enforced by the Building Inspector and the Valley City police department. The Building Inspector and the Valley City police department may institute in the name of the city appropriate actions or proceedings against a violator.

Section 7-02-10. Violation misdemeanor.

Every person who violates a provision of this chapter when that person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be subject to the general penalty.

Section 2. Title 7.1 of the Valley City Municipal Code is created and enacted as follows:

TITLE 7.1 MANAGEMENT OF THE PUBLIC RIGHT-OF-WAY AND CITY PROPERTY

CHAPTER 7.1-01. GENERAL PROVISIONS

Section 7.1-01-01. Openings.

It shall be unlawful to construct or maintain any opening or stairway in any public street or sidewalk or alley without a permit from the governing body. All such lawfully maintained openings shall be guarded by a suitable strong cover or railing to be approved by the Public Works Department in conjunction with the City Engineer.

Section 7.1-01-02. Obstructions—Penalty.

It shall be unlawful for any person to cause, create, or maintain any obstruction of any street, alley, sidewalk, boulevard or other public way, or place any personal property thereon, except as may be specified by ordinance or by written permission of the Superintendent of the Public Works Department. Any obstruction may be caused to be removed, destroyed, or corrected by order of the Superintendent and the total cost thereof must be paid by the person responsible for the obstruction. Property other than motor vehicles left upon a street, alley, sidewalk, boulevard or other public way for a period exceeding 72 hours, the ownership of which cannot be determined after reasonable effort has been made to do so, must be deemed abandoned and it may be disposed of pursuant to section 6-01-08. Abandoned motor vehicles are subject to the provisions of chapter 12-02 and N.D.C.C. Ch. 23.1-15.

Section 7.1-01-03. Awnings.

All awnings shall comply with the applicable building code provisions adopted by section 7-01-06, and when placed over a sidewalk shall extend not more than ten feet from the building, and provide overhead clearance of at least seven feet. Any awning that extends into an alley, street, or other public right of way where no sidewalk is present shall require approval of the city engineer and operations superintendent. If approved, the property owner shall enter into a written encroachment agreement with the city.

Section 7.1-01-04. Removal of snow, slush, or ice from private property by placing the same upon streets, alleys, or other property prohibited.

1. *Generally.* It shall be unlawful for any party or entity, other than municipal employees in the performance of their duties, to throw, move, dump, deposit, or permit to be deposited or scattered any snow or ice accumulated on city owned or private property, sidewalks, or public passageway onto any street, alley, or deliberately and directly upon the private property or abutting boulevard of another, except as otherwise permitted by this ordinance.
2. To process citations for placing snow on the private property or abutting boulevard of another will require the signature of the complaining party and clear evidence of a violation.
3. *Residential exceptions.* Snow or ice may be deposited on the boulevard or area between the edge of the curb or paved surface of a street or alley and the sidewalk of the abutting property where the snow or ice is removed from. Snow or ice may also be deposited, in the event there is no boulevard, along the curb and gutter in the parking lane of the street or alley.
4. *Commercial buildings.* In order to facilitate safe and adequate traffic flow and parking for customers and other business-related activities, any person operating or conducting a business in any commercial building within the city shall be prohibited from depositing snow or ice from the premises along the curb and gutter in the parking or driving lanes of the street or alley.
5. *Commercial exceptions.* Subsection "c" of this section shall not apply to the sidewalk portions of the commercial building premises where a boulevard does not exist.
6. *Violations and fees.* A violation of this section is a noncriminal offense punishable in accordance with section 1-01-11.2, and the following shall be imposed:
 1. Residential property violations under subsection 1.:
 - i. First offense fee.... \$100.00
 - ii. Second offense fee.... \$250.00
 - iii. Third or subsequent offense fee.... \$500.00
 2. Commercial property violations under subsection 4.:
 - ii. First offense fee.... \$250.00

- iii. Second offense fee.... \$500.00
 - iv. Third or subsequent offense fee.... \$1,000.00
3. *Assessment of costs.* In addition to the fees imposed herein, if the city shall remove any snow, slush, or ice so deposited, in violation of this section, the owner or occupant of the property from which the snow, slush, or ice was removed shall be billed for the cost thereof by the city, and if such payment is not made when due, the same may be assessed against the premises from which the snow, slush, or ice was removed, and collected and returned in the same manner as other municipal taxes are assessed, certified, collected, and returned, pursuant to N.D.C.C. § 40-05-01.1.

Section 7.1-01-05. Removal of snow and ice from sidewalk—Action upon noncompliance—Penalty.

1. The owner or occupant of any building or grounds within the city fronting upon or adjoining any street, when a sidewalk exists, must clear the sidewalk in front of or adjoining such building and grounds or unoccupied lot or building, as the case may be, of snow and ice to the width of such sidewalk within 48 hours after the ice forms or the snow ceases to fall thereon; provided, that where the ice accumulated is of such character as to make the removal thereof practically impossible, the use of sand, salt, or ice melt thereon within the time specified for removal in such a manner as to make the sidewalk safe for travel of pedestrians thereon, will be deemed a compliance with the provisions of this section.
2. If the owner or occupant of any above described building or grounds refuses or neglects to remove such snow or ice, in the prescribed manner and/or within the time stated herein, the street superintendent of the city may remove or cause to be removed snow and ice from the sidewalks along or in front of any building or grounds, and the necessary expense thereof shall be chargeable against the premises by special assessment pursuant to the laws of the Valley City Municipal Code or state law, as the case may be.
3. Every person who willfully violates this section is subject to the general penalty.

CHAPTER 7.1-02. SPECIFICATIONS, SUPERVISION, AND MAINTENANCE OF STREETS, SIDEWALKS, CURBS, AND BOULEVARDS

Section 7.1-02-01. Plans and specifications.

The City Engineer shall, with the approval of the Board of City Commissioners, establish and keep on file in his office, lines, grades, width and location of streets and alleys, curbs, gutters, sidewalks and boulevards, and plans and specifications for the construction thereof.

Section 7.1-02-02. Supervision of public right-of-way—Duties of Public Works Department.

It shall be the duty of the Public Works Department to establish and construct, in conjunction with the City Engineer such changes, alterations, and improvements in and to the crosswalks, curbs, and gutters. The operations superintendent shall look after and keep in good order the sewers, drains, culverts, streets, catch basins, manholes, and cesspools of the city. The operations superintendent shall see that the sidewalks, streets, parking lots, alleys, and bridges are kept in good condition and repair and free from paper, filth, and dirt. Public Works Department shall report to the proper authority any infringement of any rule, regulation, or ordinance relating to streets or city property.

Section 7.1-02-03. Supervision of public right-of-way—Duties of City Engineer.

The City Engineer shall have direct charge of all construction work being done upon the public rights of ways of the city by contract with third parties, and shall have general supervision over the repair and construction work done by the Public Works Department, and shall furnish the Public Works Department with assistance when requested.

Section 7.1-02-04. Streets—Naming

The names of all the streets and avenues in the city shall conform to the provisions of the plan and system created and established by the Public Works Department as set forth in section 7.1-01-01. Unless otherwise permitted by the Public Works Department, in consultation with the City Planner, City Engineer, and City Administrator, all streets running east and west in the city shall be called streets, and all the streets running north and south in the city shall be called avenues.

Section 7.1-02-05. Streets—Base street.

Main Street shall be named Main Street. Such street extended both east and west, shall be the base street and base line from which all streets shall be named by numbers consecutively both north and south of such base street and such base line, for which purpose Main Street shall be counted as first street, or street number one. That portion of Main Street east of Central Avenue shall bear the postfix East, and that portion west of Central Avenue shall bear the postfix West.

Section 7.1-02-06. Streets—Base avenue.

Central Avenue shall be named Central Avenue. Such avenue extended in a straight line both north and south shall be the base avenue and the base line from which all avenues shall be named by numbers consecutively both east and west of such base avenue and such base line, for which purpose Central Avenue shall be counted as first avenue or avenue number one. That portion of Central Avenue north of Main Street shall bear the postfix North, and that portion south of Main Street shall bear the postfix South.

Section 7.1-02-07. Sidewalks—Duty of property owner to construct and maintain.

The owner of any lot or parcel of land adjoining any street, lane, or alley shall construct, reconstruct, and maintain in good repair such sidewalks along the street, lane, or alley adjacent to the owner's lot or parcel of land as have been constructed by the municipality or as have been ordered constructed by ordinance. Such sidewalks shall be of the material and width and upon the place and grade specified in the ordinance.

Section 7.1-02-08. Sidewalks—Notice to construct, rebuild, or repair.

Except as otherwise provided in this chapter, if the Board of City Commissioners deems it necessary to construct, rebuild, or repair any sidewalk in the city, it shall notify each owner of record at the last address shown in the office of the County Recorder, or occupant, of any lot or parcel of land that would be benefited by the sidewalk to construct, rebuild, or repair the same at the owner's own expense and subject to the approval of the city engineer, within the time designated in the notice. The notice must be directed in the manner hereinbefore provided to the owner of record or occupant and must set forth what work is to be done, the character of the same as specified under section 7.1-01-01, and the time within which the owner is required to do the work. The work must be done to the satisfaction of the city engineer. The notice may be general as to the owner of record or occupant but must be specific as to the description of the lot or parcel of ground to be benefited by the sidewalk that is to be built or repaired. The city shall serve such notice by certified mail or delivering a copy thereof to the occupant or owner of record of each lot or parcel of occupied land described in the notice, or as to the occupant by leaving a copy thereof at the occupied structure upon such lot or parcel of land with some person over the age of sixteen years residing therein. If any lot or parcel of land is not occupied and service by mail is deemed impractical, the city may serve the notice by posting a copy thereof in a conspicuous place therein or immediately in front thereof. If such sidewalk is not constructed, rebuilt, or repaired within the time fixed in such notice, the city engineer, as soon as practicable, shall cause such work to be done. The costs thereof must be paid out of the sidewalk special fund once established, and such expense, including the expense of all notices in connection with such work, the assessment therefor, and any other expense incurred for such work may be assessed against the affected premises, and collected and returned in the same manner as other municipal taxes are assessed, certified, collected, and returned, pursuant to N.D.C.C. § 40-05-01.1.

Section 7.1-02-09. Sidewalks—Property owners petition for drainage and construction or repair of sidewalks; requirements.

If two-thirds of the resident owners in number or in value of the real estate bounding both sides of any street, not less than one block in area, shall petition the Board of City Commissioners to have such street ditched for the purpose of draining the same or any property abutting thereon, or for the construction or repairing of a sidewalk thereon, or if two-thirds of the owners of real estate in number or in value on one side of such street shall desire a sidewalk on that side, the Board shall levy and cause to be collected by tax upon the real estate on such street or part of street, such sum of money as is necessary for the drainage along the street or a sidewalk improvement in front of each of the several lots or at the side of any corner lot or lots or real estate. No real estate shall be taxed as provided in this section for sidewalks built at a greater distance from the front of the real estate than one-half of the distance to the opposite side of the street.

Section 7.1-02-10. Curbs—City to build curbing; assessment of expense; notice of assessment; approval by governing body.

The curbing in the city shall be built, repaired, or rebuilt in the manner and within the time prescribed by the governing body, which shall order the work to be done by such person as it may have contracted with therefor, under the direction of the city engineer, at the expense of the lots or parcels of land benefiting from the curbing. Such expense, including the expense of all notices in connection with such work, the assessment therefor, and any other expense incurred for such work, may be assessed against the affected premises, and collected and returned in the same manner as other municipal taxes are assessed, certified, collected, and returned.

Section 7.1-02-11. Curbs—Procedure for making limited repairs.

Whenever in the judgment of the city engineer the necessary repairs on curbing will not exceed in cost the sum of ten dollars for each twenty-five feet [7.62 meters] in front of land belonging to the same owner, the city engineer shall notify the city auditor, and the city auditor forthwith shall prepare a written notice, which may be general as to the owners of the lots or parcels of land but which shall describe specifically the lots or parcels of land adjacent to which the curbing is ordered repaired, requiring such owners to repair such curbing to the satisfaction of the city engineer within a time to be fixed in such notice. The city shall serve such notice by delivering a copy thereof to the occupant or owner of each parcel of occupied land or by leaving a copy thereof at the occupied structure upon such lot or parcel with some person over the age of sixteen years residing therein. If any lot or parcel of land is not occupied, the city shall serve the notice by posting a copy thereof in a conspicuous place thereon or immediately in front thereof. If such curbing is not repaired within the time fixed in the notice, the city engineer, as soon as practicable, shall cause such work to be done. The costs thereof must be paid out of the curbing special fund once established, and such expense, including the expense of all notices in connection with such work, the assessment therefor, and any other expense incurred for such work may be assessed against the affected premises, and collected and returned in the same manner as other municipal taxes are assessed, certified, collected, and returned, pursuant to N.D.C.C. § 40-05-01.1.

Section 7.1-02-12. Boulevards—Duty of property owner to maintain

It is the duty of the owner of any lot or parcel of land adjoining any street, lane, or alley to maintain in good repair such boulevards as ordered by the city pursuant to this chapter; and, when such boulevard has been established, to keep up and maintain the boulevard and to plant and keep the grass and trees thereon in good condition and to cut and trim the same from time to time as may be required.

Section ~~7.1-02-137-06-03~~. - Boulevards—Duty of owner to fill and seed.

Within 60 days after the construction of any curb along any property the owner shall cause the boulevard between the curb and the sidewalk to be properly filled in and graded and seeded to grass. All property along which curbing has been constructed in the past or where no sidewalk has been constructed, shall in like manner be properly filled in by

the owner between such curb line and the ~~walk-property~~ line and seeded to grass. This section does not apply when curbs and sidewalks are installed as part of an infrastructure project performed by the city; however, the owner shall retain the duties set forth in section 7.1-02-12.

Section 7.1-02-14. Boulevards—Notice to construct, repair, or maintain.

The Board of City Commissioners, whenever it shall deem it necessary to construct boulevards, or to level and sow grass seed thereon, or to plant trees thereon, or to trim trees or cut grass growing thereon, or to water or otherwise maintain or preserve any such improvement, shall give written notice to each owner and occupant of any lot or parcel of land adjoining the improvement deemed necessary requiring the person to make the improvement designated at the person's own expense and subject to the approval of the city engineer. The notice may be general as to the owners of the lots or parcels of land, but it shall be specific as to the description of the lands. The notice shall specify the improvement required to be made and the time within which the same shall be commenced or completed.

Section 7.1-02-15. Boulevards—Service of notice to construct or repair.

The city shall serve the notice provided in section 7.1-01-13 or cause the same to be served by leaving a copy thereof at the occupied structure on such lot or parcel of land with some person over the age of sixteen years residing therein, or, if the lot or parcel of land is unoccupied, by posting a copy of the notice in a conspicuous place on the land or immediately in front thereof.

Section 7.1-02-16. Boulevards—Objections to improvements; considering validity.

Within ten days after the service of the notice, any property owner may file written objections to the making of the improvement described therein. At the next meeting following the filing of the objections, the Board of City Commissioners shall consider the validity of the objections and if a majority shall deem the objections not well taken, the improvements shall be made.

Section 7.1-02-17. Boulevards—Improvement; when made; expenses.

If the boulevard improvement is not objected to or is not completed or commenced, as the case may be, within the time prescribed in the notice, or if the improvement specified in the notice consists of the maintenance of a boulevard or some improvement thereon, the city, in the event that the owner does not inform the city auditor in writing, within ten days after the service of the notice, that the improvement will be made, shall make the improvement or shall order the same to be made by such person as the city may have contracted with, under the direction of the city engineer, at the expense of the lot or parcel of land adjoining the improvement. The expense of the improvement shall include the expense of giving all notices in connection with the work, of making assessments, and of any other nature incurred in doing such work. The costs thereof must be paid out of the boulevard special fund once established, and such expense, may be assessed against the affected premises, and collected and returned in the same manner as other municipal taxes are assessed, certified, collected, and returned, pursuant to N.D.C.C. § 40-05-01.1.

Section 7.1-02-18. Boulevards—Limitation on making improvement.

A boulevard improvement, as described in section 7.1-01-13, may be made or maintained only in a block of the city in which the same improvement has been or is being made or maintained by the owners of two-thirds of the entire frontage in the block on the boulevard affected.

Section 7.1-02-19. Letting contracts for improvements; special or general contracts; regulations governing.

The Board of City Commissioners may let one or more contracts for the making of any improvement under this chapter, none of which may extend for more than three years, or, if it is deemed advisable, it may let a contract for the making of each specific improvement as the same may be determined upon. Whether the contract to be let is general or special, it shall be let in accordance with section 1-01-16 or, if applicable, N.D.C.C. ch. 48-01.2.

Section 7.1-02-20. Assessments—Improvements not to be paid for by general taxation; exception.

Except as otherwise provided in this chapter, the city shall not be liable generally on any contract for the construction, rebuilding, repairing or other improvements of sidewalks, curbs, and boulevards and shall not be required to pay funds raised by general taxation upon any such contract.

Section 7.1-02-21. Assessments—Special funds; warrants drawn upon; levy.

All moneys received by the city from assessments under this chapter shall be kept in separate funds designated as "sidewalk special fund," "curbing special fund," or "boulevard special fund," as applicable. Warrants shall be drawn on such funds for the payment of the cost of improvements. Except as otherwise provided in section N.D.C.C. § 40-26-08, the city is not liable generally on any contracts for the cost of improvements to sidewalks, curbs, or boulevards, and may not be required to pay funds raised by general taxation upon any such contract.

Section 7.1-02-22. Assessments—Warrants; payable; interest; contents; signed; uses.

All assessment warrants under this chapter shall be payable as specified and in such amounts as in the judgment of the Board of City Commissioners will be provided by the taxes and assessments. The warrants shall bear interest at a rate or rates and be sold at a price resulting in an average net interest cost not to exceed twelve percent per annum if sold at private sale. There is no interest rate ceiling on warrants sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities. The warrants must state on their face the purpose for which they were issued and from what fund they are payable and must be signed by the executive officer and countersigned by the city auditor. The warrants may be used in making payment on contracts for making the improvements or may be sold for cash at not less than ninety-eight percent of the par value thereof and the proceeds credited to the special fund and used to pay for such improvements.

Section 7.1-02-23. Assessments—City auditor to pay warrants from special fund.

The city auditor shall pay sidewalk, curb and boulevard assessment warrants and interest thereon at the time or times and in the manner designated by the Board of City Commissioners out of the applicable special fund.

Section 7.1-02-24. Assessments—Priority.

From the time any assessment list provided for in this chapter is approved by the Board of City Commissioners, the assessment, with interest and penalties thereon, shall be and remain a permanent lien upon the property upon which the assessment is levied until the assessment is paid in full, and it shall have precedence over all other liens except general taxes. Such lien shall not be divested by any judicial sale, and no mistake in the description of the property assessed nor in the name of the owner thereof shall defeat such lien if the property assessed can be identified by the description in the assessment list.

CHAPTER 7.1-03. – EXCAVATIONS AND STREET CUTTING

Section 7.1-03-01. Permit—Required.

Any person, other than an individual employed by the city, who intends to engage in boring, excavating, constructing, removing, replacing, repairing or patching any sidewalk, street, curb, alley, gutter, driveway returns, or public right-of-way, or otherwise disturb the surface or subsurface of any public right-of-way, shall first apply to and obtain a permit from the public works office.

Section 7.1-03-02. Permit—Contents of application; application fee; deposits.

An excavation permit application must be filed with the public works office on forms furnished by the city. The application shall contain the following:

1. Reason for excavation.
2. Whether pavement, curb and gutter or sidewalk will be removed for excavation.
3. Whether streets or sidewalks will be closed and, if so, proposed alternative routes.
4. Location of work area.
5. Name and address of owner of adjacent property.
6. Anticipated construction date and estimated time to complete work.
7. Name and address of approved contractor and signature of contractor or authorized agent.
8. Site plan.

An application fee and a deposit must be paid at the time the application is filed. No permit shall be issued unless such fee and deposit are paid and the public works office has determined that the applicant has met all of the requirements of this chapter. The amount of the application fee and deposit shall be set by the City Administrator. Such deposit shall not be returned until the City Administrator or an authorized agent is satisfied that the area worked upon under such permit has been substantially returned to its former state. The purpose of, and results achieved by, such work and the conditions under which such work was done shall be considered in coming to a decision thereon. Such deposit shall not be arbitrarily or unreasonably withheld.

Section 7.1-03-03. Permit—Issuance.

A permit shall be granted if the Operations Superintendent, City Engineer, or other individual designated by the City Administrator finds (1) the work will be done according to city plans and specifications, (2) the operation will not unreasonably interfere with vehicular and pedestrian traffic, parking, and ingress and egress to adjacent properties, and (3) the health, welfare and safety of the public will not be unreasonably impaired. Permits will be issued by the public works office after review by the appropriate individual.

Section 7.1-03-04. Excavation and filling to conform to city plans; inspection required.

1. All work described in this chapter shall be performed under the supervision of the City Engineer or other individual designated by the City Administrator, and in accordance with plans and specifications on file with the City Engineer. All such work must be inspected to ensure compliance with applicable plans and specifications. Excavation cuts must be inspected prior to and after filling. Any disturbed surface or subsurface shall be restored to as good a condition as it was prior to excavation.
2. If the excavated area has not been returned to its former condition as determined by the City Engineer, the city will complete the work, the deposit will be applied to the costs thereof, and the balance shall be refunded. If such deposit is not sufficient to cover the costs, the permit holder shall be liable to the City for the difference.
3. Construction and restoration work must be completed within the time period set forth in the permit which shall be no more than 30 days from the date work is commenced. Such time period may be waived or extended if the same is requested and granted in writing. The waiver or extension may be denied if good cause is not shown in such request.

Section 7.1-03-05. Contractors—Prerequisites.

Only persons or entities meeting the following requirements may be approved for a permit under this chapter:

1. Contractor must be under contract with the city or be approved by the City Engineer.
2. Contractor must have a current North Dakota contractor's license.
3. Contractor must have experience with excavation work and must provide references upon request.

Section 7.1-03-06. Contractors—Insurance.

Any person or entity issued a permit under this chapter must file proof of liability insurance with the public works office, covering any and all damages claimed by reason of negligence, incompetence or omission on the part of such person or entity in the performance of its work, the same to include, but not be limited to, careless guarding of excavations made by it, or failure to restore all public properties to as good a condition as they were before such work was done, or for any damages growing out of the negligence or carelessness of any such permitted person or entity. Such insurance shall be in place for the duration of the bond as provided herein, and shall not be cancellable without notice to the city.

Section 7.1-03-07. Contractors—Bond; duty to restore and maintain.

No permit shall be granted by the public works office unless such person or entity shall have given a bond in the sum of \$30,000.00 or as set by resolution of the board of city commissioners, and shall be in effect for a term of two years, with good and sufficient surety, conditioned, among other things, that said permittee will save harmless the city from damages caused by reason of any negligence or faulty work by any person or entity or any employee, agent or subcontractor of such person or entity, and that the material used and the work done shall be strictly in accordance with the requirements of this chapter.

If the contractor fails to restore or maintain the excavation site for a period of one year from completion of work, the city may do the necessary work and recover all costs and expenses from the bond or the defaulting permit holder.

Section 7.1-03-08. Worksite protection and signage.

It shall be the duty of the permit holder to place and maintain barriers, lights, flares, other warning devices and signage for the safety of the public. Protective measures must be installed in conformance with the Manual on Uniform Traffic Control Devices. The permit holder shall take all appropriate measures to minimize inconvenience to the occupants of adjacent property. Adequate crossings for vehicles and pedestrians must be maintained unless written approval to close any such crossing is provided by the public works office.

CHAPTER 7.1-04. – PARADES, PUBLIC ASSEMBLIES AND OTHER USES OF THE PUBLIC RIGHT-OF-WAY AND CITY PROPERTY

Section 7.1-04-01. Parades, events, exhibitions, shows, public assemblies.

1. No person shall, upon any public streets, alleys, sidewalks, city lot or parcel, or other grounds of the city, conduct or exhibit any parade, procession, show, performance, public or private event, assembly or meeting of any kind without having first submitted an application to and obtained an event permit from the Office of the City Auditor.
2. An applicant for an event permit under this section shall provide, at a minimum, the following information on a form approved by the City Auditor:
 - a. The name and address of the applicant. If the applicant is an organization, the name and contact information for a contact person.
 - b. The proposed location or route, including a map or diagram, and the time and date of the event including the time of commencement and the anticipated time of termination.

- c. The anticipated number of participants in the event. In the case of parades or processions, the anticipated number of floats, motor vehicles, animals, or people, and the plans for staging and parking for parade participants for both the beginning and end of the parade.
 - d. Plans for any necessary cleanup that might arise from the event. The applicant is responsible for returning city streets, alleys, sidewalks, or grounds to their pre-event condition. If an applicant fails to adequately clean up after an event, the city shall perform the cleanup and bill the cost to the applicant.
 - e. Such other relevant information as may be required to safeguard the participants and the public.
3. The Chief of Police and Public Works Superintendent shall work with the applicant to ensure public safety and to minimize the impact on traffic movements and public convenience. After consultation with and approval of the Chief of Police and Public Works Superintendent, the permit shall be issued by the Office of the City Auditor.
 4. The City Administrator and Board of City Commissioners shall be notified immediately upon approval of the permit. The North Dakota Department of Transportation shall be notified of events affecting state highways.
 5. The city may require persons or organizations to submit an application under this section for events conducted on private property in order to ensure public safety.
 6. When an applicant requests permission to use a city-owned lot or parcel to conduct an event, the applicant will be required to enter into a separate license agreement.

Section 7.1-04-02. Picketing and demonstrations—Notice required—Regulations.

1. *Intent.* The Board of Commissioners recognizes that the public sidewalks, streets, and boulevards of the City of Valley City are traditional public forums for free speech; that schools, courthouses, and other government buildings are open to the public and exist for the purpose of providing services to the public; that it is imperative that such facilities are accessible to the citizens of Valley City and that the employees and officials working therein are able to conduct business on behalf of the public without obstruction or interference; that the citizens of Valley City have a right to avoid unwelcome speech within their private businesses and homes; that the exercise of a person's right to picket or demonstrate in a public forum must be balanced against another person's right to live, work, and provide and receive public services without obstruction or interference; and that preventing the willful obstruction or interference with said activities is a matter of local concern. The Board of Commissioners therefore declares that it is appropriate to adopt an ordinance that sets reasonable time, place, and manner restrictions on picketing within the city.

2. *Definitions.*

Demonstrating means making a public display of sentiment for or against a person, organization or cause and includes but is not limited to any oration, speech, use of sound amplification equipment or device, or similar conduct; the display of any placard, banner, flag, or similar device; or the distribution of any handbill, pamphlet, leaflet, or other written or printed matter.

Noise means any sound.

Picketing means the practice of standing, marching, sitting, lying, patrolling, demonstrating, or otherwise maintaining a physical presence by one or more persons inside of, in front of, or about any premises.

Public sidewalk means that portion of the street right-of-way which is designated for the use of pedestrians and may be paved or unpaved.

Street means the entire width of the public right-of-way, excluding the sidewalk, that is open to the use of the public as a street or alley, including the boulevard.

3. *Notice of intent to picket or demonstrate.*

- a. An individual intending to picket or demonstrate or the organizer of a group intending to picket or demonstrate, where the organizer knows that the picket or demonstration will include a group of less than 30 individuals, shall provide written notice to the chief of police of the picket or demonstration, including the planned time and location of the picket or demonstration.
- b. The organizer of a picket or demonstration that the organizer knows, or should reasonably know, will include a group of 30 or more individuals shall provide written notice of the intent to picket to the chief of police at

least 48 hours before the picket or demonstration is to begin. The notice shall contain the following information:

- i. The name, address, and contact telephone number of the organizer of the picket.
- ii. The name of the organization sponsoring the picket.
- iii. The location, date and time, including duration and intended daily hours of the picket.
- iv. The organizer's best estimate of the number of individuals who will participate in the picket.

4. *Picketing regulations.*

- a. Picketing may be conducted on public sidewalks in the city. Picketing may not be conducted on public sidewalks during times when a permit for a different use of that location has been issued by the city. Picketing may not occur on street medians or on streets used primarily for motor vehicle traffic unless so directed by the police. Picketing shall not be allowed on a street if an adjacent public sidewalk is available.
- b. Picketing shall not disrupt, block, obstruct, or interfere with pedestrian or vehicular traffic or the free passage of pedestrian or vehicular traffic into any driveway, pedestrian entrance or other access to buildings which abut the public sidewalk. Picketing within ten feet of the entrance to any building, without the permission of the owner thereof, is deemed to be a violation of this section. Picketers and demonstrators shall not block the access points of any property including the private sidewalk or driveway.
- c. No person shall knowingly approach another person within eight feet of such person, unless such other person consents, for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest or education with such other person in the public sidewalk or street within a radius of 100 feet from any entrance door to a school, courthouse, or government building.
- d. During the hours of 7:30 a.m. through 5:00 p.m., Monday through Friday, and any time scheduled for a meeting of the Board of City Commissioners or city committee, and at any time a school or court is in session, a person is prohibited from singing, chanting, whistling, shouting, yelling, playing music, using megaphones, bullhorns, auto horns, sound amplification equipment, or making other noises within earshot of individuals within a school, courthouse, or other government building which willfully disturb, interfere with, obstruct, or tend to disturb, interfere with, or obstruct such public business, meeting or session.
- e. It is unlawful for any person to engage in picketing before or about the residence or dwelling of any individual in the city.
- f. Placards, flags, signs, or banners carried by picketers shall be of such a size as to allow safe and unobstructed passage of pedestrian or vehicular traffic.
- g. If more than one group of picketers desire to picket at the same time and location, a police officer may, without regard to the purpose or content of the picket, assign each group a place to picket in order to reduce congestion and preserve public peace. Picketing time and location shall be generally on a first-to-notify basis.
- h. Whenever the free passage of any street or public sidewalk in the city is obstructed by a crowd, congregation, meeting, assembly, demonstration, picket, or procession, or the conduct of two or more persons, the persons comprising the group shall disperse or more so as to remove the obstruction when directed to do so by a police officer. It is unlawful for any person to refuse to comply with a request by a police officer pursuant to this section.

5. *Penalty.* Any person who violates this section commits an infraction.

Section 7.1-04-03. Limited use of sidewalk for sale and delivery.

It shall be lawful, notwithstanding anything contained in this article to the contrary, for any person to place, and set out for sale any goods, wares, or merchandise on or over the sidewalk in front of and within three feet of the store or building occupied by such person; it shall also be lawful for any person to place, and leave for a period not exceeding two hours any goods, wares, or merchandise which the person shall be in the act of receiving or delivering, on the sidewalk in front of the place of business; provided, that the person does not use and occupy more than three feet of the outer edge of such sidewalks in so doing.

Section 7.1-04-04. Limited use of sidewalk for outdoor patio area.

1. No person may own, set up or operate an outdoor patio area on any public sidewalk without first obtaining a permit from the city.
2. Permit applications shall be submitted to the Auditor's Office on forms approved by the City Administrator, along with a non-refundable fee set by resolution of the Board of City Commissioners.
3. Every permit issued under the provisions of this section will expire on December 31 of the year in which it is issued.
4. The city may deny an application or take disciplinary action, up to and including revocation, against any applicant or permit holder upon failure to comply with any statute, ordinance, rule, regulation or condition of the permit. Notice of a violation must be given to the permit holder and may include additional or revised conditions, along with a demand to remedy the violation. Within 24 hours of receipt of the notice, the permit holder must submit to the City Administrator for approval a written plan to cure the violation. Failure to submit a plan or reasonably implement an approved plan is cause for immediate revocation of the permit. An applicant or permit holder may appeal to the Board of Commissioners the denial of an application or revocation of a permit. The appeal must be submitted to the City Attorney in writing within 10 days of the denial or revocation and, if timely and approved as to form, will be heard by the Board at its next regularly scheduled meeting.
5. Permit holders for outdoor patio areas and their employees must meet the following:
 - a. The permit holder will set up the outdoor patio area, including, but not limited to, the furniture, canopies, fencing and/or other accessories used for the outdoor patio area, only in the area designated by the city in the permit. An outdoor patio area must be adjacent to the business that has received the permit to operate the outdoor patio area. An outdoor patio area may not include a roadway or alley. The outdoor patio area must not impede, endanger or interfere with pedestrian or vehicular traffic.
 - b. Furniture, canopies, fencing and/or other accessories used for the outdoor patio area must be located so that a minimum of 48 inches of unobstructed clear space for pedestrian travel within the pedestrian way, or the minimum required by the North Dakota Building Code or Americans with Disabilities Act, whichever is more restrictive, is maintained at all times. The location of the outdoor patio area must be approved by the City Engineer.
 - c. The permit holder must provide proper containers or some other means for the collection of waste and trash within the outdoor patio area permitted. The permit holder must keep the immediate area around the outdoor patio area clean of garbage, trash, paper, cups, cans or litter associated with the operation of the outdoor patio area. All waste and trash must be properly disposed of by the permit holder.
 - d. The permit holder must comply with all city health and other applicable regulatory agency requirements, including, but not limited to, the requirements for food service. The permit holder must display in a conspicuous location all such required permits and/or licenses and must provide copies of those permits and/or licenses to the city prior to issuance of a permit for an outdoor patio area by the city. The permit holder must continuously maintain the required approvals, permits and/or licenses and provide evidence to the city upon request.
 - e. The permit holder is responsible for the maintenance, upkeep, security, and safe condition of the furniture and accessories of the outdoor patio area and the city is not responsible for the same.
 - f. The permit holder must not have on the premises any bell, siren, horn, loudspeaker or any similar device to attract the attention of possible customers nor may the permit holder use any such device to attract attention.
 - g. Employees of the permit holder for the outdoor patio area must not consume alcoholic beverages while working in the outdoor patio area.
 - h. For any outdoor patio area where alcoholic beverages are served, the permit holder must comply with all state and local regulations for the sale, possession and/or consumption of alcoholic beverages and must provide the city with a diagram and/or plans showing the location of the outdoor patio area where alcoholic beverages will be served. In addition, the area where alcoholic beverages are sold, possessed and/or consumed must be effectively bordered by a partition, rope, temporary fence or other device designed and intended to separate the outdoor patio area from passersby.

- i. The permit holder must comply with the prohibitions on loud, unnecessary, unnatural, annoying or disturbing noises set forth in chapter 12-03.
- j. The design of the furniture, canopies, fencing and/or other accessories, including a border required for an outdoor patio area by subdivision h, must be approved by the city prior to a permit being issued. The applicant must provide a photograph, drawing or sketch of the design of the furniture and accessories to be used for the outdoor patio area as part of the application for a permit.
- k. Tables, chairs, borders and any other structure or item placed on the sidewalk must be removed from the sidewalk at the end of the business day, at business closure, or in the event of inclement weather, unless other arrangements are specifically allowed by the City Administrator in writing.
- l. Cooking or food preparation is not allowed in outdoor patio areas. Self-service food outdoors is allowed if approved by the Health District Environmental Health Division.
- m. No outdoor patio area equipment or furniture may be placed in such a manner as to obstruct a building exit.

Section 7.1-04-05. Camping in public places prohibited; exception; removal of campsites; penalty.

1. *Definitions.* In this chapter, unless the context or subject matter otherwise requires:

Camp means to set up or maintain a campsite in a single location on city property.

Campsite means a location upon city property where camping materials are placed.

Camping materials include, but are not limited to tents, huts, awnings, lean-tos, chairs, tarps, portable stoves, fires, cots, beds, mattresses, sleeping bags, hammocks, cooking devices, utensils, and/or other collections of personal property that are, or reasonably appear to be, arranged and/or used as accommodations to live or camp.

City property means all property including but not limited to parks, streets, alleys, sidewalks, boulevards, rights-of-way, parking lots, easements or other land owned, leased, controlled, or managed by the city.

Personal property means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.

Relocate means to move both the individual(s) and personal property off of city property, or to a different authorized city property, for at least 24 hours. This definition does not include moving to another portion of the same city property.

2. *Sleeping on sidewalks, streets, alleys, or within doorways prohibited.*

- a. No person may sleep on public sidewalks, streets, alleyways, parking lots, or other rights-of-way at any time as a matter of individual and public safety.
- b. No person may sleep in any pedestrian or vehicular entrance to public or private property abutting a public sidewalk.
- c. In addition to any other remedy provided by law, any person found in violation of this section may be immediately removed from the premises.

3. *Camping regulated.*

- a. No person may occupy a campsite inconsistent with the regulations in this chapter unless specifically authorized by: (i) a formal declaration of the President of the Board of City Commissioners in emergency circumstances, or (ii) upon resolution, the Board of City Commissioners may exempt a special event from the prohibitions of this chapter, if the Board finds such exemption to be in the public interest and in accordance with conditions imposed by the City Administrator. Any conditions imposed will include a condition requiring that the applicant provide evidence of adequate insurance coverage and agree to indemnify the city for any liability, damage or expense incurred by the city as a result of activities of the applicant. Any findings by the Board shall specify the exact dates and location covered by the exemption.
- b. Unless otherwise authorized by law or subdivision a., the only locations where it is lawful to place camping materials, or store camping materials for any period of time on city property are those locations designated by

the Board. The city shall maintain an updated description and map of designated locations, if any, and make such information available to the public.

- c. Where the temporary placement of camping materials is authorized, an individual that has placed camping materials on city property must relocate according to the time limitations set forth for that location.

4. *Removal of campsite on public property.*

- a. The city or its authorized designee shall remove individuals, personal property, camping materials, and campsites from city property consistent with the following.
- b. Except as provided in subdivision f., at least 48 hours before removal, law enforcement officials shall personally serve a written notice or post the notice in a conspicuous location at the premises.
- c. When notice is provided, if the law enforcement official determines that the occupants of the campsite are homeless, the law enforcement official shall inform the local agency that delivers social services to homeless individuals as to where the notice has been served or posted.
- d. All personal property at the campsite shall be taken, stored and disposed of pursuant to section 6-01-08 except:
 - i. The personal property of a homeless individual may be delivered to the local social services agency.
 - ii. Items that have no apparent value or utility, are in an unsanitary condition, or are deemed to be rubbish, garbage, litter, or junk as those terms may be defined under this Code, may be immediately discarded upon removal of individuals from the camping site.
 - iii. Weapons, controlled substances other than prescription medication, and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.
- e. The written notice required under subdivision a must state, at a minimum:
 - i. Where unclaimed personal property will be stored;
 - ii. A phone number that individuals may call to find out where the property will be stored; or
 - iii. If a permanent storage location has not yet been determined, the address and phone number of an agency that will have the information when available.
- f. The 48-hour notice requirement under subdivision b. of this section does not apply:
 - i. When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring at an established camping site.
 - ii. In the event of an exceptional emergency at an established camping site, including, but not limited to, possible site contamination by hazardous materials, a public health emergency or other immediate danger to human life or safety.
 - iii. If a funeral service is scheduled with less than 48 hours' notice at a cemetery at which there is a camping site, or a camping site is discovered at the cemetery less than 48 hours before the scheduled service, the written notice required under subdivision a. of this section may be posted at least 24 hours before removing individuals from the campsite.
- g. Law enforcement officials, local social services agency officials and outreach workers shall meet periodically to assess the notice and removal policy, to discuss whether the removals are occurring in a humane and just manner and to determine if any changes are needed to these provisions.

5. *Penalties and enforcement.*

- a. A violation of this chapter is punishable as an infraction. For a first offense, a minimum fine of \$50.00 shall be imposed. For a second offense, a minimum fine of \$100.00 shall be imposed.
- b. In addition to any other penalties that may be imposed, any campsite used in a manner not authorized by this chapter, or other provisions of this code, shall constitute a public nuisance and may be abated as such.
- c. The remedies described in this chapter shall not be the exclusive remedies of the city for violations of this chapter.

6. This chapter does not apply to designated recreational areas and campgrounds operated by the local park district.

CHAPTER 7.1-05. FRANCHISES

Section 7.1-05-01. Applicability.

This chapter is applicable to any public utility that desires to provide a new service to city residents after March 18, 2025, or upon the expiration or renewal of any franchise agreement of a public utility with a service existing on March 18, 2025.

Section 7.1-05-0~~21~~. Franchises required.

Except as otherwise provided by law, no person, firm or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, upon or under any street, alley, sidewalk or other public right of way or public place for the purpose of providing a public utility or for any other service in the city, without a franchise therefor from the city. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the clerk to guarantee publication before the ordinance is passed.

Section 7.1-05-0~~32~~. Term.

No franchise shall be granted for a term exceeding 20 years.

Section 7.1-05-04. Liability for delay of city infrastructure project.

Every franchise ordinance shall contain a clause or clauses obligating the public utility to relocate structures, lines, or equipment located within the city's public right of way when required for the city's infrastructure projects. Said clause shall require planning and coordination between the City and public utility; public utility liability for any delays caused by the public utility; restoration of the right of way by the public utility following relocation, adjustment or removal of structures, lines, or equipment; and indemnification for claims, damages, losses, and expenses arising from the public utility's activities under this section.

Section 7.1-05-0~~35~~. Public hearings.

Before any franchise ordinance is adopted or any fees therefore are fixed by the Board of City Commissioners, the Board shall hold a public hearing on the matter. Notice of such hearing shall be published once each week for two successive weeks, the first publication to be no less than 20 days prior to the date of the hearing.

Section 7.1-05-0~~64~~. Regulatory powers of the board of city commissioners.

All franchises shall be subject to the rules and regulations promulgated by the board of city commissioners in the enacting ordinance and any other ordinance applicable thereto. If any franchise shall violate any provision of any ordinance of the city, such franchisee may be proceeded against for any fine or penalty imposed thereby, and the franchise may be revoked, or forfeited, in the discretion of the board of city commissioners.

Section 7.1-05-075. Non-transferability.

No franchise shall be assigned or transferred without first making applications to and receiving the approval of the board of city commissioners.

Section 7.1-05-086. Non-exclusivity.

No franchise granted by the board of city commissioners shall be exclusive, except as provided by the Public Service Commission.

Section 7.1-05-098.

No franchise granted by the board of city commissioners shall be exclusive, except as provided by the Public Service Commission.

CHAPTER 7.1-06. WIRELESS TELECOMMUNICATIONS FACILITIES IN PUBLIC RIGHT-OF-WAY

Section 7.1-06-01. Purpose.

The provisions of this chapter shall be known as the small cell facilities regulations. It is the purpose of these provisions to develop standards and siting criteria, and to establish removal procedures. It is further the purpose of these provisions:

1. To establish regulations and siting standards for small cell wireless communication facilities (SCFs), whether in the public right-of-way or on other public or private property, in a manner that will protect the public's health, safety, and welfare and maintain the aesthetic integrity of the community;
2. To facilitate the provision of wireless communication services;
3. To provide regulations which are specifically not intended to, and shall not be interpreted or applied to: (1) prohibit or effectively prohibit the provision of wireless services; (2) unreasonably discriminate among functionally equivalent service providers; or (3) regulate wireless communication facilities and wireless transmission equipment on the basis of the environmental effects of radio frequency emissions to the extent that such emissions comply with the standards established by the Federal Communications Commission.

Section 7.1-06-02. Definitions.

As used in this chapter, the following terms shall have the meanings set forth below:

Antenna. Any communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services. This definition does not include broadcast radio or television antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

Applicant. Any person who submits an application as or on behalf of a wireless provider.

City. The City of Valley City, North Dakota.

Collocation. The mounting or installation of an antenna or a small cell facility on a pre-existing utility pole or SCF support structure and/or modifying a utility pole or SCF support structure for the purpose of mounting or installing an antenna or SCF on that utility pole or SCF support structure in order to transmit and/or receive radio frequency signals for communications purposes.

Department. The Public Works Department of the city.

FCC. The Federal Communications Commission.

Height. The vertical distance measured from the base of the structure at grade to the highest point of the structure, including the antenna.

Network interface device. The telecommunications demarcation and test point separating the wireless facility and the wireline backhaul facility.

Person. An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the city.

Public right-of-way or right-of-way or ROW. The surface and space above and below any street, sidewalk, avenue, boulevard, alley, lane, easement, right-of-way, highway or thoroughfare open for public use in which the city has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public.

Small cell facility or SCF. A wireless facility that either meets both of the following qualifications or is within a stealth design that is consistent with the design guidelines:

1. Each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of no more than three cubic feet; and
2. Each wireless provider's equipment shall be no larger than 28 cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meters, concealment measures, network interface device, underground enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switches, cable, conduit, and vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.
3. The facility is mounted (i) on a utility pole or SCF support structure 50 feet or less in height including antennas; (ii) on a utility pole or SCF support structure no more than ten percent taller than other adjacent structures of substantially similar design; or (iii) on an existing utility pole or SCF support structure where the facility does not extend the height of the utility pole or SCF support structure on which it is to be located to a height of more than the greater of either 50 feet or the height of such utility pole or SCF support structure plus ten percent.

Small cell facility permit. A permit authorizing the installation, construction, and maintenance of a small cell facility.

Small cell facility support structure or SCF support structure. A structure, such as a monopole; tower, either guyed or self-supporting; billboard; building; or other existing or proposed structure designed to support or capable of supporting SCFs. Such term does not include a utility pole.

Stealth design. Any SCF that is integrated as an architectural feature of a utility pole or changes a support structure design so that the purpose of the utility pole or SCF support structure for providing wireless services is not as readily apparent. This includes the ability of SCFs to blend into the neighborhood environment at a given location and camouflage or conceal the SCF subject to applicable law.

Superintendent. The superintendent of the department.

Utility pole. A pole or similar structure that is or may be used in whole or in part to facilitate telecommunications, electric distribution, lighting, traffic control, signage, or to carry lines, cables, or other similar function, or for location or collocation of small cell facilities. Such term does not include a SCF support structure.

Wireless facility. Equipment at a fixed location that enables wireless services between user equipment and a communications network, including (i) equipment associated with wireless communications; (ii) radio transceivers; (iii) antennas; (iv) coaxial or fiber optic cable located on a utility pole or SCF support structure or immediately adjacent to the utility pole or SCF support structure or directly associated with equipment located on the utility pole or SCF support structure; (v) regular and backup power supplies and rectifiers; and comparable equipment, regardless of technological configuration. The term includes SCFs but does not include (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities.

Wireline backhaul facility. An above-ground or underground wireline facility used to transport communications data from a wireless facility network interface device to a network.

Wireless infrastructure provider. A person that builds or install wireless facilities or utility poles or SCF support structures, but not a wireless services provider.

Wireless provider. A wireless infrastructure provider or a wireless services provider.

Wireless services. Any services, using licensed or unlicensed spectrum, including the use of WiFi, whether at a fixed location or mobile, provided to the public; but not including WiFi provided to patrons of a business using equipment such as a modem located entirely within the premises of the business.

Wireless services provider. A person who provides wireless services.

Section 7.1-06-03. Applicability.

1. *Permit processing:* For all SCF installation types, including new and replacement utility poles and SCF collocations to existing SCF support structures or existing utility poles, the department shall issue permits in accordance with the terms and procedures set forth in this chapter.
2. *Zoning exemption:* All SCF installations shall be exempt from general zoning restrictions unless a provision of such zoning code is explicitly cited by a section of this chapter.
3. *Exempt activities:* An application shall not be required for (i) routine maintenance; or (ii) the replacement of an SCF, utility pole, or SCF support structure which was previously approved pursuant to this chapter with another SCF, utility pole, or SCF support structure that is the same or substantially similar.

Section 7.1-06-04. Siting and collocation criteria.

1. SCFs shall:
 - a. Be located on existing structures, such as utility poles or SCF support structures; or
 - b. Be located on public property and structures if the controlling public entity agrees to the placement.
2. Application to collocate SCFs at locations other than those listed in subsection 1. may not be approved administratively. However, if an applicant certifies that it is not technically feasible, economically feasible, or places an undue burden to collocate an SCF at a location designated in subsection (1), the applicant may request a special review of the application as provided under subsection 7-08-05(3). Such certification shall include a written statement indicating the reasons why said location is not feasible.

Section 7.1-06-05. Small cell facility permits.

1. *Permit required.* An SCF permit shall be required to install any SCF, utility pole, or SCF support structure. Applications for an SCF permit shall be considered and approved pursuant to the provisions of this section. An SCF permit shall be deemed to include all other municipal permits which may be necessary to place and construct an SCF, utility pole, or SCF support structure as represented in an approved application. The granting of an SCF permit pursuant to this chapter is not a grant of any franchise. All applications shall first be reviewed administratively and then, if not eligible for administrative approval, may be considered via the special review process.
2. *General review provisions.*
 - a. *Review period:* The department must approve or deny all SCF permit applications pursuant to this chapter (i) within 90 days after the date an application is filed for an SCF permit application to place a new utility pole or SCF support structure, or (ii) within 60 days after the date an application is filed for collocation of an SCF. If approved, the permit shall be issued on or before day 90 or 60.
 - b. *Tolling of review period:* An applicant and the department may mutually agree in writing to toll the applicable review period at any time.
 - c. *Final decision.* By the end of the applicable review period, the city must advise the applicant in writing of its final decision. If the final decision is to deny the application, the final decision shall state the basis for denial, including specific code provisions on which the denial is based.
 - d. *Nondiscrimination:* The department shall process all applications under this chapter in a nondiscriminatory manner.
3. *Small cell facility permit process.*

- a. *Administrative review process:* An application submitted pursuant to this subsection shall be reviewed as follows:
 - i. *Submission of application:* Applicant shall submit a complete SCF application accompanied by any corresponding application fee to the department.
 - ii. *Review for completeness:* The department shall review the application for completeness following submittal. The department must provide a written notice of incompleteness to the applicant within ten days of receipt of the SCF permit application, clearly and specifically delineating all missing information. Information specified in a notice of incompleteness shall be limited to that which is relevant to the approval or denial of an application under this chapter. Applicant shall then submit all information specified in the notice of incompleteness. The applicable review period shall restart at zero on the date the applicant provides the missing information to complete the application. For subsequent determinations of incompleteness, the applicable review period shall be tolled if the department provides written notice within ten days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The applicable review period will continue, and shall not restart at zero, on the date the applicant provides the missing information identified in a subsequent incompleteness review.
 - iii. An application may not be approved via the administrative review process unless the proposed SCF, utility pole, or SCF support structure meets all applicable location and design requirements of this chapter. An application shall be approved via the administrative review process if the proposed SCF, utility pole, or SCF support structure meets all applicable location and design requirements of this chapter.
- b. *Special review process:*
 - i. An applicant may request a special review of an application which is not eligible for administrative approval due to not meeting the applicable location or design requirements of this chapter and where compliance with said requirements is not technically feasible, economically feasible, or poses an undue burden.
 - ii. Special reviews shall be conducted by the Board of City Commissioners in a public meeting. The review hearing and final decision shall take place within the applicable 60- or 90-day review period which shall begin on the date a complete application is submitted to the department.
 - iii. The Board must approve, by majority vote, an SCF application upon finding that the proposed installation has no reasonable alternative which better fits the location and design requirements of this chapter. The Board shall deny an application which does have a reasonable alternative which better fits the location and design requirements of this chapter. For an alternative to be reasonable, the alternative must be technically feasible, economically feasible, and must not impose an undue burden.
 - iv. After the Board has made a determination on an SCF application, the Department shall issue an SCF permit if the application was approved. If denied, the Department shall provide a notice of final decision including the grounds upon which the Board denied the application.

4. *Small cell facility permit applications.*

- a. *Application form:* The Director shall designate or develop an application form for an SCF permit. An applicant may include requests for new or replacement utility poles or SCF support structures. The Director shall allow for applications to be consolidated pursuant to this section. Each applicant must submit a complete application for each permit desired.
- b. *Consolidated applications:* Each SCF permit request in a consolidated application shall be considered individually.
- c. All applications for the placement of an SCF, including modification or construction of a utility pole or SCF support structure submitted under this chapter shall include the following:
 - i. *Photo simulations.* A photo simulation of a reasonably representative installation type that includes to-scale visual simulations that show unobstructed before-and-after construction daytime views from at least two angles, together with a map that shows the location of the proposed installation, including all equipment. A separate set of such materials shall be required for any design which is materially different.

- ii. *Noise study.* A noise study for the SCF if (i) requested by the city, (ii) the application proposes to utilize equipment which may produce a persistent or chronic audible tone that may be heard within any occupied building.
- iii. *Radio frequency (RF) emissions compliance.* Whereas the FCC has exclusive jurisdiction to establish radio frequency emission safety standards, the city may only require a written report or statement, signed and sealed by a North Dakota licensed engineer or signed by a competent employee of the applicant, which explains compliance with the RF emissions limits established by the FCC.
- iv. *Utility pole or SCF support structure inspection.* For collocations or modifications to existing utility pole or SCF support structure, applicant shall inspect the structure to which a proposed SCF would be attached and determine, based on a structural engineering analysis by a North Dakota registered professional engineer, the suitability of the pole or structure for the applicant's purposes. The structural engineering analysis shall be submitted to the Department and shall certify that the utility pole or SCF support structure can reasonably support the proposed SCF.
- v. *New and replacement utility poles and SCF support structures.* For new and replaced utility poles and SCF support structures, applicant shall submit foundation drawings demonstrating the foundation and new or replacement utility pole or SCF support structure can reasonably support the SCF.
- vi. *Design justification.* A clear and complete written analysis that explains how the proposed design complies with the applicable design standards under this section. A complete design justification must identify all applicable design standards under this chapter and provide a factually detailed reason why the proposed design either complies or cannot feasibly comply.
- vii. *Site plan.* A site plan clearly indicating the location, type, height and width of the proposed pole, on-site land uses and zoning, adjacent land uses and zoning, distances to nearby objects, structures, and property lines, adjacent roadways, proposed means of access, utility runs, and other information which may uniquely impact the SCF's fitness for a particular site.
- viii. *Aesthetic compliance summary.* An explanatory statement of aesthetic considerations and requirements factored into applicant's design such as stealthing, finishing, fencing, landscaping, or other elements which may impact the visual appeal of the SCF.
- ix. A clear and complete written statement of purpose which shall minimally include: (i) a description of the technical objective to be achieved; (ii) a to-scale map that identifies the proposed site location and the targeted service area to be benefited by the proposed project; and (iii) full-color signal propagation maps.

5. *General standards.*

- a. *Utility pole design:* An existing utility pole may be replaced or extended to accommodate small cell facilities subject to the following requirements:
 - i. *Replacement and new utility poles:* Replacement utility poles shall be substantially similar to the width, color, and material of the original or adjacent utility poles. The city may approve minor deviations up to the minimum additional height needed to allow for the required clearance from electrical wires to accommodate an antenna or antennas and may also approve minor deviations up to 50 percent of the pole width at its base, not to exceed 30 inches, when housing equipment is placed within the pole base. Replacement utility poles shall be located as close as possible to the existing utility pole, and the replaced utility pole shall be removed. Replacement street lights and poles shall conform to the adopted streetscape design standard for the zoning district. New utility poles shall mimic the design of a replacement utility pole that is most suitable for the proposed location.
 - ii. *Replacement and existing utility pole height:* The height of any antennas at the top of a replacement or existing utility pole or any pole extender, shall be no higher than the greater of either 50 feet or the height of such utility pole or SCF support structure plus ten percent.
 - iii. *Equipment concealed:* Whenever technically feasible, antennas, cabling, and equipment shall be fully concealed within a pole, or otherwise camouflaged to appear to be an integrated part of a pole.
 - iv. *Flush-mounting and pole-top antennas:* When technically feasible, antennas will be flush-mounted on a pole, which means either: (i) mounted directly to the pole with no gap other than that which may be required for screws, bolts, or similar hardware; (ii) located at the top of the pole; or side mounted by mounted arm as needed for required clearance. Canisters attached to the top of a pole shall not exceed the diameter of the pole, unless technically required, and then shall not be more than 50

percent greater than the diameter of the pole at the point of attachment or up to 16 inches in diameter, whichever is greater.

- v. *Antenna design:* Each antenna shall be located in an enclosure of no more than three cubic feet in volume, or in case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of no more than three cubic feet.
 - vi. *No illumination:* Small cell facilities shall not be illuminated except for small status LEDs installed by the manufacturer. Such LEDs may not be of a nature which is likely to distract a vehicle or pedestrian due to brightness, size, blinking, other similar condition, or any combination thereof.
 - vii. *Generators and battery backup:* Generators are not permitted for small cell facilities. A battery backup may be permitted if it is concealed consistent with the provisions of this chapter.
 - viii. *Cabinet location and dimensions:* Any equipment cabinet for a small cell facility shall utilize the smallest cabinet enclosure that is technically feasible to enclose the equipment. Disconnect switches may be located outside of the primary equipment cabinet.
 - ix. *Painting, coating, or finish material:* The exterior of an SCF shall be painted, coated, or be of a material which draws minimal attention from an observer. For example, an SCF painted in blaze orange or safety green is highly likely to draw attention and be distracting. An SCF finished with polished aluminum is more likely to be distracting than an SCF finished with matte grey paint.
- b. *Ground-mounted equipment:* To allow full use of the public rights-of-way by pedestrians, bicyclists, and other users, all ground-mounted equipment, excluding antennas, shall to the extent feasible be either (i) undergrounded, (ii) incorporated into street furniture, or (iii) concealed in the base of a pole, and in all cases shall comply with the Americans with Disabilities Act (ADA), city construction standards, and any applicable state or federal regulations in order to provide clear and safe passage within the public right-of-ways. The location of any ground-mounted equipment shall also comply with the Americans with Disabilities Act (ADA), City Construction Standards, and any applicable state or federal regulations in order to provide clear and safe passage within the public rights-of-way.
- c. *Building-mounted small cell facilities:* Antennas may be mounted to a building if the antennas do not interrupt the building's architectural theme.
- i. *Balanced design:* Small cell facilities attached to the side or roof of buildings shall employ a symmetrical, balanced design for all façade-mounted antennas. Subsequent deployments on a structure's exterior will be required to ensure consistent design, architectural treatment and symmetry with any existing small cell facilities on the same side of the structure.
 - ii. *Architectural preservation:* The interruption of architectural lines or horizontal or vertical reveals is prohibited unless demonstrated to be unavoidable.
 - iii. *Complementary architecture:* New architectural features, such as columns, pilasters, corbels, or other ornamentation that conceal an antenna or antennas, may be used only if the new feature complements the architecture of the existing building.
 - iv. *Mounting brackets:* Small cell facilities shall utilize the smallest mounting brackets necessary in order to provide the smallest offset from the building.
 - v. *Concealment:* Skirts or shrouds shall be utilized on the sides and bottoms of antennas in order to conceal mounting hardware, create a cleaner appearance, and minimize the visual impact of the antennas. Exposed conduit, cabling and wiring is prohibited.
 - vi. *Matching paint:* Small cell facilities, and all visible mounting hardware, shall be painted and textured to match adjacent building surfaces.
 - vii. *Permission:* All installations of a small cell facility shall have permission from the utility pole or SCF support structure owner to install the small cell facility on such utility pole or SCF support structure. Nothing in this section affects the need for an applicant seeking to place a small cell facility on a utility pole or SCF support structure that is not owned by the city to obtain from the owner of the utility pole or SCF support structure any necessary authority to place the small cell facility, nor shall any provision of this section be deemed to affect the rates, terms, and conditions for access to or placement of a small cell facility on a utility pole or SCF support structure not owned by the city. This section does not affect any existing agreement between the Department and an entity concerning the placement of small cell facilities on any city-owned utility pole or SCF support structure.
- d. *Preferred projecting or marquee sign:* Small cell facilities replicating a projecting or marquee sign must comply with the city's sign regulations. All antennas shall be completely screened by the façade of the sign. All cables

and conduit to and from the sign shall be routed from within a building wall. Cable coverings may be allowed on the exterior of the building wall in limited circumstances and in situations where the coverings are minimally visible and concealed to match the adjacent building surfaces.

- e. *Parking lot lighting:* Small cell facilities are permitted as attachments to or replacements of existing parking lot light fixtures. The design of the parking lot light fixture shall be in accordance with applicable Municipal Code and Construction Standards, except that a pole extender up to five feet in height may be utilized.
- f. *Purely aesthetic standards:* To the extent that a requirement is purely aesthetic, an SCF applicant shall not be required to meet a more burdensome standard than other users of the right-of-way. Other users of the right-of-way shall meet the purely aesthetic standards of this chapter for new or replacement deployments to the extent which is technically and economically feasible. The Superintendent or City Engineer, with approval of the City Administrator, may adopt additional aesthetic standards consistent with this chapter; however, such requirements shall be (i) reasonable, (ii) no more burdensome than for other types of infrastructure deployments, and (iii) objective and published in advance.

Section 7.1-06-06. Permit conditions.

1. A permittee shall comply with all applicable law, including, but not limited to, applicable historic preservation ordinances of the city and utility undergrounding requirements.
2. Issuance of any permit pursuant to this chapter shall not confer any ownership rights in the public right-of-way.
3. No permittee may construct, operate, place, locate, or maintain any small cell facility so as to interfere with the use of the public right-of-way by the city, the general public, or any other persons authorized to use or be present in or upon the public right-of-way.
4. No permittee or affiliate thereof shall take any action or cause any action to be done which may impair or damage any ROW, or other property located in, on or adjacent thereto. Any and all public right-of-way, public property, or private property that is disturbed or damaged by the permittee or affiliate thereof during the construction, operation, maintenance, or repair of a small cell facility shall be promptly repaired by permittee. In the event permittee fails to make such repairs within a reasonable time period, the city may complete or cause to be completed the repair work and bill the actual and reasonable costs to the permittee. Public property, private property, and public right-of-way must be restored to as good a condition as before the disturbance or damage occurred to the reasonable satisfaction of the city.
5. In the event of an unexpected repair or emergency, the owner of a small cell facility may commence such repair and emergency response work as required under the circumstances, provided it shall notify the city promptly before such repair or emergency work, or the next day thereafter if advance notice is not practicable.
6. Each permittee shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state, and local requirements. Permittee shall be responsible for all electrical or other utility costs associated with operating each installed SCF.
7. Every small cell facility shall be subject to the right of periodic inspection by the city, after notification to the small cell facility owner. Each operator must respond to requests for information regarding its system and plans for the system as the city may from time to time issue, including requests for information regarding its plans for construction, operation and repair of the public right-of-way.
8. The city retains the right and privilege, after notifying the small cell facility owner, to move any small cell facility located within the public right-of-way as the city may determine to be necessary, in response to any public health or safety emergency.
9. To the extent permitted by North Dakota law, the city shall not be liable for any damage to any small cell facility within the public right-of-way as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the public right-of-way by or on behalf of the city, except to the extent such damage is due to or caused by the city's negligence or willful misconduct.
10. Restoration shall comply with the following:
 - a. When a permittee, or any person acting on its behalf, does any work in or affecting any public right-of-way, it shall, at its own expense, promptly remove any obstructions therefrom and restore such right-of-way or

property to the same, or better than the, condition which existed before the work was undertaken. As used in this section, "promptly" shall mean as soon as required by the city in the reasonable exercise of the city's discretion.

- b. If weather or other conditions do not permit the complete restoration required hereunder, the permittee shall temporarily restore the affected right-of-way or property. Such temporary restoration shall be at the permittee's sole expense, and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.
 - c. A permittee or other person acting on its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting the right-of-way.
 - d. Restoration and repair work shall be the responsibility of the permittee for two years after completion thereof. Such work shall be limited to further restoration or repairs arising out of deficient completion of the initial work but shall not include further restoration or repairs arising out of events not related to the initial completion of the work.
11. The site and small cell facilities and SCF support structures, including all landscaping, fencing and related transmission equipment must be maintained at all times in a neat and clean manner and in accordance with all approved plans. This includes, but is not limited to, mowing, weeding and trimming.
12. All graffiti on small cell facilities must be removed at the sole expense of the permit holder after notification by the city to the owner or operator of the small cell facilities.
13. Certificate of completion.
 - a. A certificate of completion will only be granted upon satisfactory evidence that the SCF was installed in substantial compliance with the approved plans and photo simulations.
 - b. If it is found that the SCF installation does not substantially comply with the approved plans and photo simulations, the applicant shall make any and all such changes required to bring the SCF installation into compliance within the timeframe established by the municipality. Failing to obtain a certificate of completion within the applicable timeframe shall cause a permit to be revoked.
14. Compliance: All small cell facilities must comply with all standards and regulations of the FCC and any state or other federal government agency with the authority to regulate small cell facilities.
15. Applicant insurance. Each applicant shall secure and maintain liability insurance policies, as accepted by the city, insuring the applicant and including the city, and its elected and appointed officers, officials, boards, commissions, agents, representatives, and employees as additional insureds, as their interest may appear under this section except workers compensation and employer's liability, which insurance shall be maintained during and for one year after termination of the permit. Expected coverage shall be the same or substantially similar to the following:
 - a. General liability insurance with limits of:
 - i. \$5,000,000.00 per occurrence for bodily injury (including death); and
 - ii. \$2,000,000.00 for property damage resulting from any one accident; and
 - iii. \$5,000,000.00 general aggregate including premise-operations, products/completed operations, and explosion, collapse and underground hazards.
 - b. Automobile liability for owned, non-owned and hired vehicles in the amount of \$2,000,000.00 combined single limit for each accident for bodily injury and property damage.
 - c. Worker's compensation within state statutory limits and employer's liability insurance with limits of \$1,000,000.00 each accident/disease/policy limit.
 - d. Upon receipt of notice from its insurer(s), applicant shall provide city with 30 days prior written notice of cancellation of any required coverage.
 - e. The applicant shall obtain, furnish to the city replacement insurance policies meeting the requirements of this section.
16. Financial assurance. Upon the approval of an SCF application, the permittee shall post a bond, letter of credit, or other form of surety acceptable to the city.

- a. The purpose of such financial assurance shall be to:
 - i. Provide for the removal of abandoned or improperly maintained SCFs, including those that the city determines need to be removed to protect public health, safety, or welfare;
 - ii. Restoration of the ROW in connection with removals as provided for in this chapter; or
 - iii. Recoup rates or fees that have not been paid by the permittee in over 12 months, so long as the permittee has received reasonable notice from the city of any of the non-compliance listed above and an opportunity to cure.
- b. The amount of the financial assurance shall be \$200.00 per approved SCF permit. For permittees with multiple SCFs within the city, the total amount of financial assurance across all facilities may not exceed \$10,000.00, which amount may be combined into one surety instrument.

Section 7.1-06-07. Relocation.

All small cell facilities shall be constructed and maintained so as not to obstruct or hinder the usual travel on or safety of the public right-of-way or obstruct any legal use of the city's right-of-way or uses of the right-of-way by utilities or other providers. If, in the reasonable determination of the city, a small cell facility needs to be relocated for reasons of public health, safety or welfare, or ROW maintenance or construction projects, then the small cell facility shall be relocated at the owner's or operator's expense. If the owner or operator of the small cell facility fails to complete any relocation as required by the city within 90 days of mailing of written notice, the city may commence and complete the relocation and charge the owner or operator of the small cell facility for the actual and reasonable costs of the relocation, including reasonable any attorneys' fees and expenses.

Section 7.1-06-08. Removal of abandoned small cell facilities, utility poles, and other SCF support structures.

Any SCF, utility pole or other SCF support structure that is not operated for a continuous period of 12 months or is no longer authorized by a small cell facility permit or other permit shall be considered abandoned, and the owner of such SCF, utility pole or other SCF support structure shall so notify the city in writing and remove the same within 90 days of giving notice to the city of such abandonment. Failure to remove an SCF, utility pole, or other SCF support structure within said 90 days shall be grounds for the city to remove the SCF, utility pole, or SCF support structure, at the owner's expense, including all costs and reasonable attorneys' fees.

If there are two or more users of a single utility pole or SCF support structure, then these provisions shall not become effective until all users cease using the utility pole or SCF support structure.

Section 7.1-06-09. General indemnification.

In addition to and distinct from the insurance requirements of this chapter, each applicant hereby agrees to defend, indemnify and hold harmless the city and its officers, officials, boards, commissions, employees, agents and representatives from and against any and all damages, losses, claims and expenses, including reasonable attorneys' fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the acts, omissions, failure to act or misconduct of the applicant or its affiliates in the construction, installation, operation, maintenance, repair, removal or replacement of the SCF. This section shall not require the applicant to indemnify or hold harmless the city for any losses, claims, damages, and expenses arising out of or resulting from the negligence or willful misconduct of the city.

Section 7.1-06-10. Appeal process.

If a permit is denied in the administrative review process, then the applicant may appeal that decision to the Board of City Commissioners for further consideration. Nothing in this section is intended to require exhaustion of administrative remedies or otherwise prevent an applicant from proceeding directly to court or to the Federal Communications Commission.

Section 7.1-06-11. Application fees and rates.

1. *Application fees.* A permit for SCF including a utility pole or SCF structure shall be limited to \$500.00 for up to five SCFs, and \$100.00 for each additional SCF on the application.

2. *Recurring fees.* A wireless provider authorized under this chapter to place SCFs and any related utility pole or SCF support structure in the ROW shall pay to the city an annual ROW access fee of up to \$270.00 per site per year to cover all recurring fees, including the cost of ongoing monitoring of each site for compliance with the terms of this chapter and for the health, safety, and welfare of the general public, and for the attachment of SCF's to city-owned or controlled utility poles or SCF support structures. Recurring fees shall be paid annually in accordance with the city's standard billing or invoicing procedures, as the case may be. The City Council shall establish and adjust recurring fee rates by resolution.
3. The application fee and the recurring fees under this section shall be the sole compensation that the wireless provider shall be required to pay the city. However, the rates of either the application fee or the recurring fees may be increased due extreme circumstances but in no case may such fees exceed a reasonable approximation of the city's actual and reasonable costs. In addition, such fees must be objectively reasonable, and no higher than charged to similarly-situated competitors in similar situations.

Section 3. Repeal. Chapter 15-06 of the Valley City Municipal Code is repealed.

Section 4. Repeal. Section 17-04-23 of the Valley City Municipal Code is repealed.

Section 5. Any ordinances of the City of Valley City which are in conflict with this ordinance are hereby repealed.

Section 6. Should any part of this ordinance be declared unconstitutional or invalid, the remaining portion thereof will remain in full force and effect.

Section 7. Effective Date. This ordinance shall be in full force and effect from and after its final passage and approval.

ATTEST:

Dave Carlsrud, President of the Board of City
Commissioners, City of Valley City

Brenda Klein, Finance Director

Introduction and First Reading: February 20, 2025

Second Reading: March 4, 2025

Third Reading, Final Approval, and Effective Date: March 18, 2025

RESOLUTION NO. 2474

RESOLUTION CREATING PAVING IMPROVEMENT DISTRICT NO. 132

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF VALLEY CITY, BARNES COUNTY, NORTH DAKOTA:

- (1) That Paving Improvement District No. 132 is created and established in the City of Valley City, Barnes County, North Dakota, for the purpose of street seal coating, and any additional incidental work as deemed necessary, upon and along the streets and avenues contained within the district, as follows:

12th Street North from 9th Avenue NW to 5th Avenue NE; 5th Avenue SW from Winter Show Drive to 10th Street SW; 10th Street SW from 5th Avenue SW to 4th Avenue SW.

- (2) As a result of consultation with KLJ Engineering LLC & Moore Engineering, Inc., City Engineers, Valley City, North Dakota, the City Commission determines the following size and form to be most practicable for serving the portions of the municipality included in Paving Improvement District No. 132 of the City of Valley City, Barnes County, North Dakota, and that the District contains the streets and avenues designated above and includes the following land and territory within the corporate limits of the City of Valley City, Barnes County, North Dakota:

[INSERT ADDRESSES]

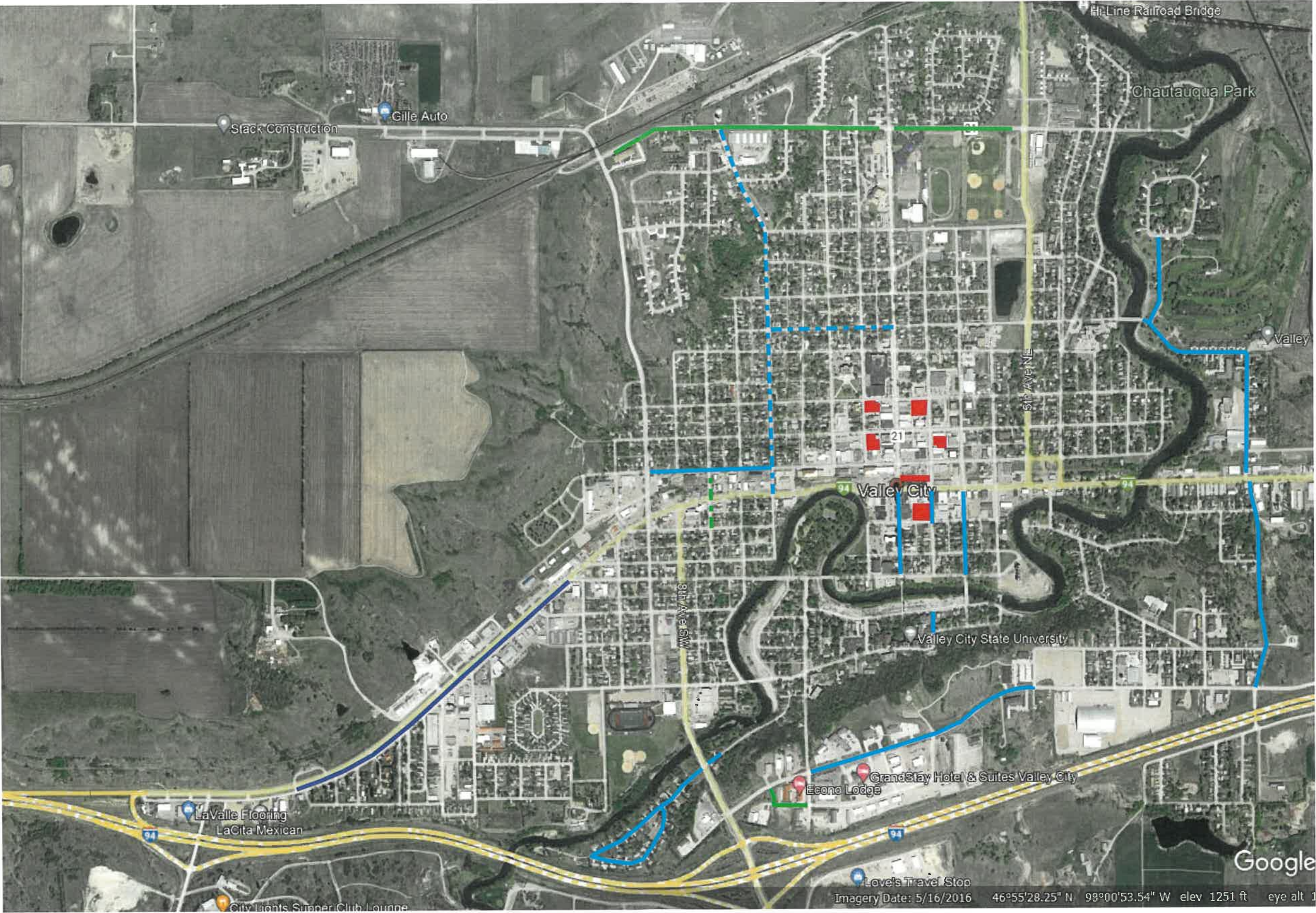
- (3) The City of Valley City exercises its right under North Dakota Century Code section 40-24-10 to provide for the payment by general taxation of all the taxable property in the municipality of not more than one-fifth of the cost of Paving Improvement District No. 129.
- (4) This resolution is in full force and effect as of its passage on this 18th day of March, 2025.

Dave Carlsrud, President of the Board of
Commissioners of the City of
Valley City, North Dakota

ATTEST:

Brenda Klein, Finance Director

Seal Coat Locations



— 2024 Seal Coat (Special Assess)
- - - 2024 Seal Coat (No Specials - New)

— 2025 Seal Coat (Special Assess)
- - - 2025 Seal Coat (No Specials - New)

February 2025 Expenditures

Monthly Exp:	\$1,573,274
Includes:	
VC/BC Public Library Property Tax	\$43,952
PFP Property Buyout/Engineering	\$91,411
Construction Projects	\$285,754
PW Capital Projects	\$6,000
MRES-Purchased Power	\$465,747
Payroll & Benefits	\$314,482
Tyler Technologies-Annual Software Maintenance	\$37,875
Workforce Safety Insurance - Annual Prem.	\$21,697
Retail Image Grants	\$7,850
VC Park District	\$24,559
Debt Service	\$16,770
Subtotal:	\$1,316,097
Balance for operations	\$257,177

RESOLUTION NO. 2473

A RESOLUTION TO ANNEX TERRITORY

WHEREAS, the Board of City Commissioners of the City of Valley City, North Dakota, desires to annex territory contiguous to the corporate limits of the City pursuant to Section 40-51.2-07 of the North Dakota Century Code, as amended.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF VALLEY CITY, BARNES COUNTY, NORTH DAKOTA:

1. That the boundaries of the City of Valley City, Barnes County, North Dakota, be and they are hereby extended so as to include and to incorporate within the corporate limits of the City of Valley City, Barnes County, North Dakota, the following tract(s) of land:

All of the previously unannexed portions of the following, as shown in the attached map:

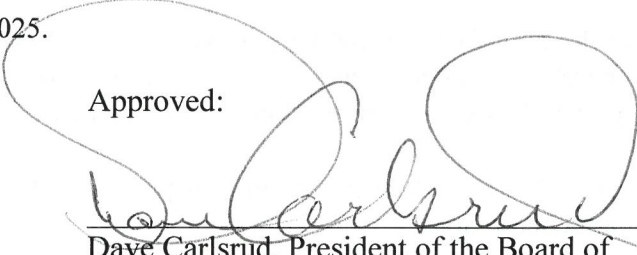
Parcel A, Auditor's Lot Three (3), Lot Three (3) of Oxbow Addition, and Tract A Lot One (1) Block Three (3) of Woodland Park Subdivision all being in the Southeast Quarter (SE $\frac{1}{4}$) of Section Twenty-nine (29); Parcels B and E being in the Northeast Quarter (NE $\frac{1}{4}$) of Section Thirty-two (32); and Parcels C and D being in the Northwest Quarter (NW $\frac{1}{4}$) of Section Thirty-three (33) all within Township Once Hundred Forty (140) North, Range Fifty-eight (58) West of the Fifth Principal Meridian, within Barnes County, North Dakota.

2. That a hearing to determine sufficiency of protests shall be held at 5:00pm on March 18, 2025, in the City Hall Commission Chambers.
3. That this Resolution and a Notice of Hearing shall be published in the official newspaper of the City of Valley City once a week for two consecutive weeks, with the first publication to take place at the earliest available opportunity.
4. That written protests may be filed with the City Finance Director protesting against the annexation within 30 days of the first publication of this Resolution.
5. That no later than March 3, 2025, a copy of this Resolution and Notice of Hearing shall be mailed by certified mail to the owners of each parcel of real property within the area to be annexed. The Notice must inform landowners of the resolution, the time and place of hearing, and the requirement that protests must be filed in writing.
6. That no later than March 11, 2025, a copy of this Resolution and Notice of Hearing shall be mailed by certified mail to each city, county and/or township directly affected by the land area proposed to be annexed.

7. That no state-owned property may be annexed without the written consent of the state agency or department having control of the property.
8. That in the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of this Resolution, the territory described in the resolution becomes a part of the city.
9. That when a copy of this Resolution and an accurate map of the annexed area, certified by the President of the Board of City Commissioners, are filed and recorded with the county recorder, the annexation becomes effective.

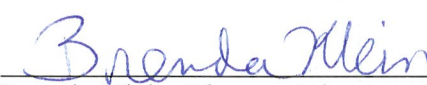
Dated this 4th day of February, 2025.

Approved:



Dave Carlsrud, President of the Board of
City Commissioners of the City of Valley City,
Barnes County, North Dakota

ATTEST:



Brenda Klein, Finance Director

Advertising Invoice

Valley City Times-Record

P.O. Box 697
Valley City, ND 58072

Phone: 7018450463
Fax: 7018450175
URL: www.times-online.com

Carl L. Martineck
City of Valley City
254 2nd Avenue NE
Valley City, ND 58072

Acct #: 00001433
Phone #: (701) 845- 8136
Post Date: 02/25/2025

Ad #	Text	Start	Stop	Ins. Amount	Prepaid	Due
COVCHearNotice/Carl		02/18/2025	02/25/2025			\$167.04

Please return a copy with payment

Total Due \$167.04

AFFP

COVC/NoticeOfResolution_2473

Affidavit of Publication


STATE OF NORTH DAKOTA SS
}
COUNTY OF BARNES
COUNTY }

Karen Bruyey, being duly sworn, says:


That she is Karen Bruyey of the Valley City Times Record, a daily newspaper of general circulation, printed and published in Valley City, Barnes County, North Dakota; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

That said newspaper was regularly issued and circulated on those dates.

SIGNED:


Karen Bruyey

Subscribed to and sworn to me this 5th day of March 2025.


Brenda Tompt, Business Manager, Barnes County
County, North Dakota

My commission expires: July 05, 2026

00001433 00020050

Carl L. Martineck
City Attorney / HR Director
254 2nd Ave. NE
PO Box 390
Valley City, ND 58072

CITY OF VALLEY CITY
NOTICE OF RESOLUTION
AND HEARING NOTICE

IS HEREBY GIVEN that the following resolution was duly adopted by the Board of Commissioners of the City of Valley City, North Dakota on February 4, 2025. The City Commission will meet to hear and determine sufficiency of protests at the date and time set forth therein. The owners of any real property within the described territory may file written protests with the City Auditor within 30 days after the first publication of the resolution. A copy of the resolution and annexation map are available for public inspection at City Hall, 254 2nd Ave NE, Valley City, during regular business hours.

RESOLUTION NO. 2473

WHEREAS, the Board of City Commissioners of the City of Valley City, North Dakota, desires to annex territory contiguous to the corporate limits of the City pursuant to Section 40-51.2-07 of the North Dakota Century Code, as amended. NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF VALLEY CITY, BARNES COUNTY, NORTH DAKOTA:

1. That the boundaries of the City of Valley City, Barnes County, North Dakota, be and they are hereby extended so as to include and to incorporate within the corporate limits of the City of Valley City, Barnes County, North Dakota, the following tract(s) of land:

All of the previously unannexed portions of the following, as shown in the attached map:

Parcel A, Auditor's Lot Three (3), Lot Three (3) of Oxbow Addition, and Tract A Lot One (1) Block Three (3) of Woodland Park Subdivision all being in the Southeast Quarter (SE¼) of Section Twenty-nine (29); Parcels B and E being in the Northeast Quarter (NE¼) of Section Thirty-two (32); and Parcels C and D being in the Northwest Quarter (NW¼) of Section Thirty-three (33) all within Township Once Hundred Forty (140) North, Range Fifty-eight (58) West of the Fifth Principal Meridian, within Barnes County, North Dakota.

2. That a hearing to determine sufficiency of protests shall be held at 5:00pm on March 18, 2025, in the City Hall Commission Chambers.

3. That this Resolution and a Notice of Hearing shall be published in the official newspaper of the City of Valley City once a week for two consecutive weeks, with the first publication to take place at the earliest available opportunity.

4. That written protests may be filed with the City Finance Director protesting against the annexation within 30 days of the first publication of this Resolution.

5. That no later than March 3, 2025, a copy of this Resolution and Notice of Hearing shall be mailed by certified mail to the owners of each parcel of real property within the area to be annexed. The Notice must inform landowners of the resolution, the time and place of hearing, and the requirement that protests must be filed in writing.

6. That no later than March 11, 2025, a copy of this Resolution and Notice of Hearing shall be mailed by certified mail to each city, county and/or township directly affected by the land area proposed to be annexed.

7. That no state-owned property may be annexed without the written consent of the state agency or department having control of the property.

8. That in the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of this Resolution, the territory described in the resolution becomes a part of the city.

9. That when a copy of this Resolution and an accurate map of the annexed area, certified by the President of the Board of City Commissioners, are filed and recorded with the county recorder, the annexation becomes effective.

Dated this 4th day of February, 2025.

APPROVED:

Dave Carlsrud, President
Board of City Commissioners

(February 18 & 25, 2025)

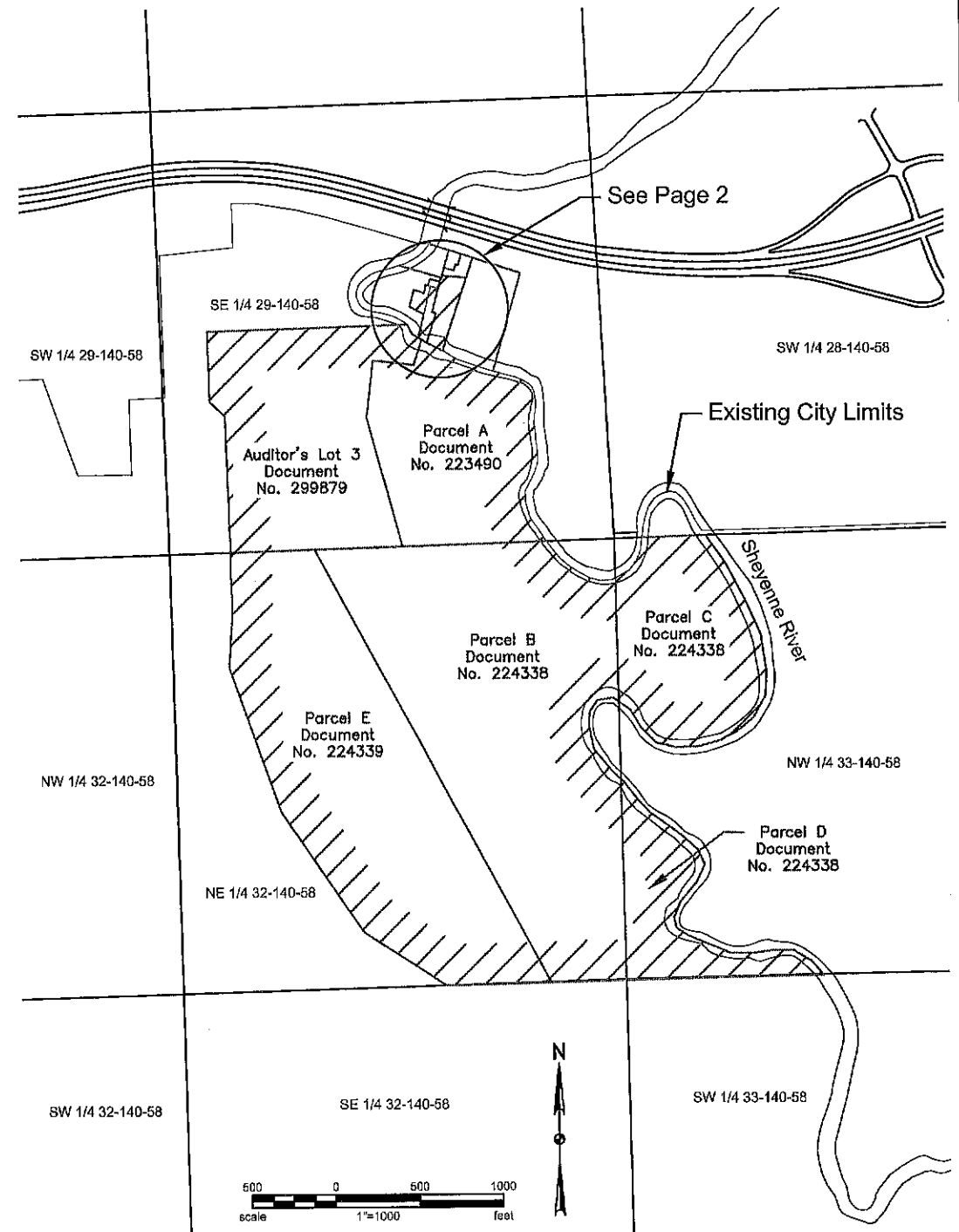
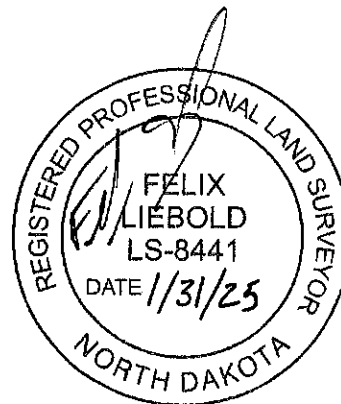
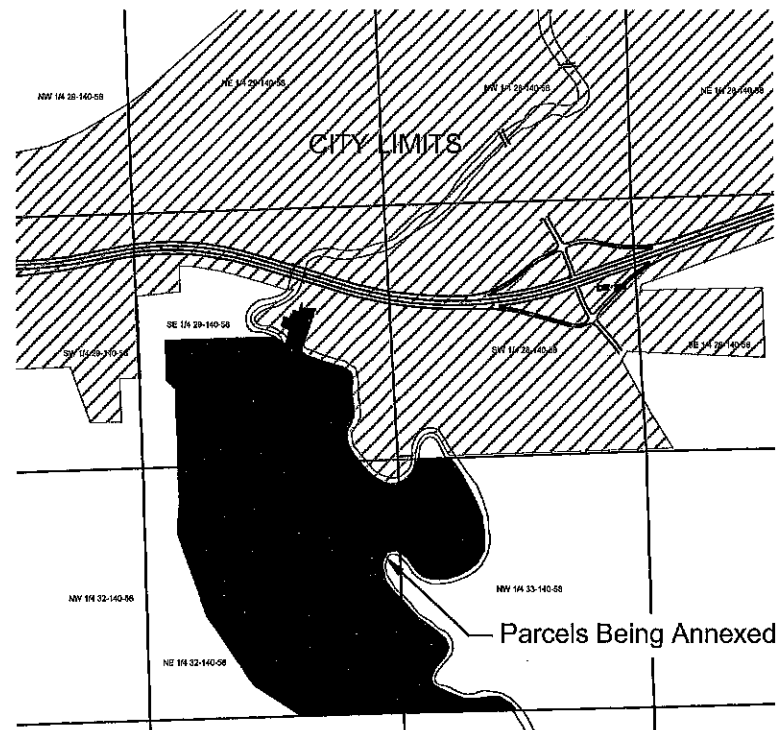
BRENDA TOMPT
Notary Public
State of North Dakota
My Commission Expires July 5, 2026

ANNEXATION EXHIBIT

Parcel A, Auditor's Lot 3, Lot 3 Oxbow Addition, and Tract A Lot 1 Block 3 Woodland Park Subdivision all being in the Southeast Quarter of Section Twenty-Nine (29);
Parcels B and E being in the Northeast Quarter of Section Thirty-Two (32); and Parcels C and D being in the Northwest Quarter of Section Thirty-Three (33) all within Township One Hundred Forty (140) North, Range Fifty-Eight (58) West of the Fifth Principal Meridian, within Barnes County, North Dakota

NOTE: Portions of Lot 3 Oxbow Addition and Tract A Lot 1 Block 3 Woodland Park Subdivision were previously annexed into the city before being platted. The entirety of Lot 3 Oxbow Addition and Tract A Lot 1 Block 3 Woodland Park Subdivision will be annexed into the City of Valley City with this Annexation.

VICINITY MAP



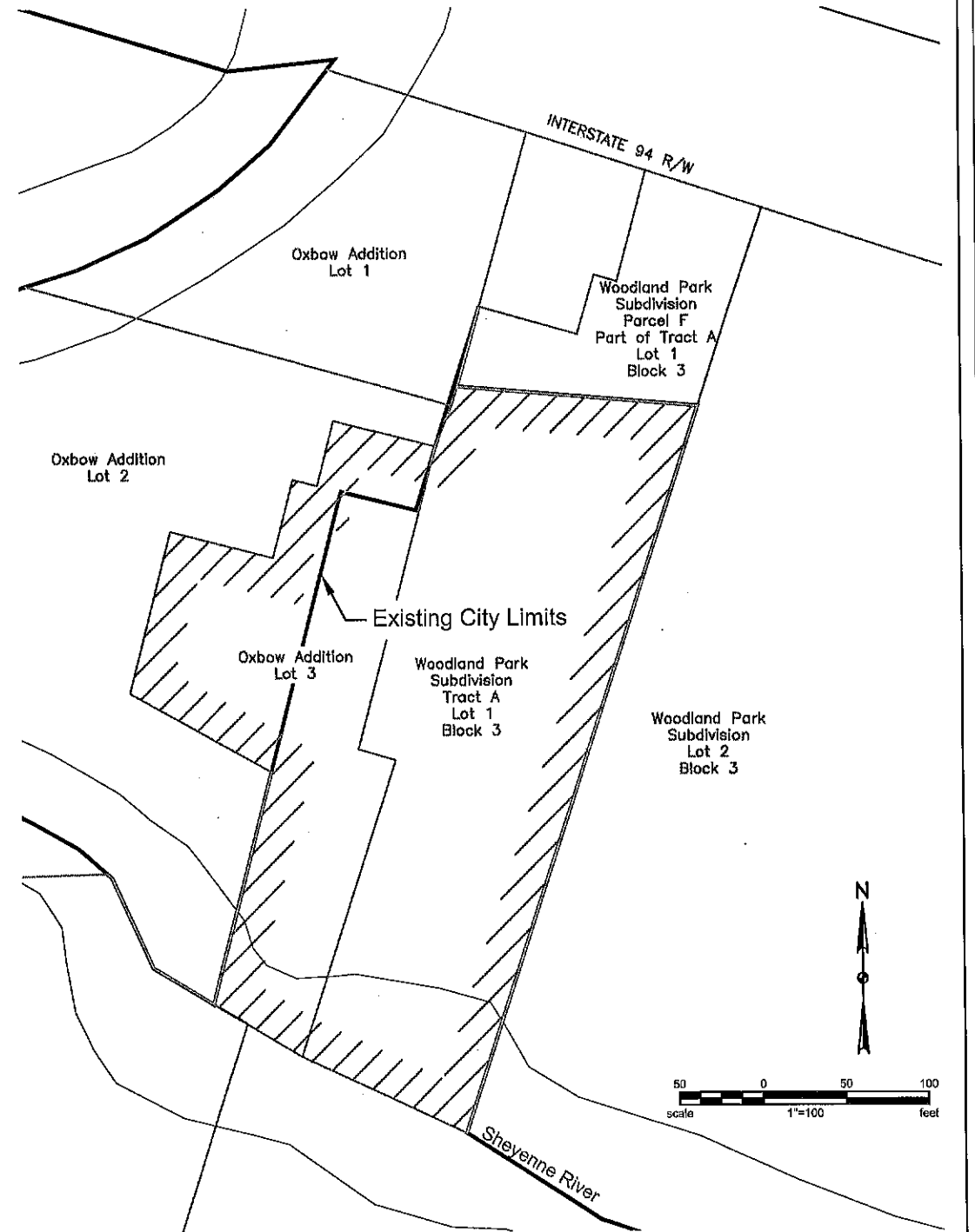
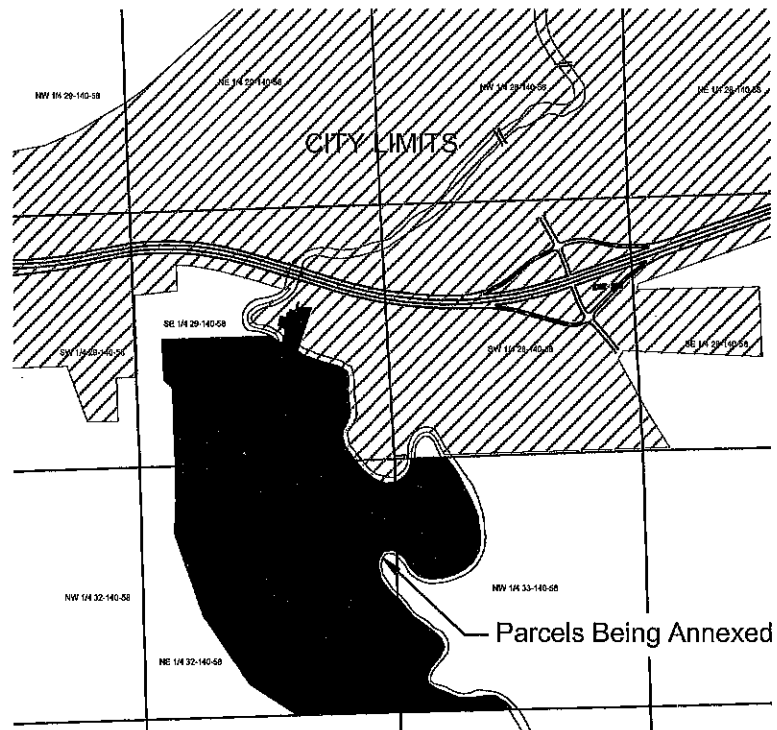
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VICINITY MAP



PUBLIC NOTICE

SECTION 00100
ADVERTISEMEnt FOR BIDS
FXS-0206(057), PCN 24338
BARNES COUNTY,
NORTH DAKOTA

Sealed bids will be received by Barnes County at the office of KLJ Engineering at 1010, 4th Avenue SW Valley City, ND 58072, until 1:00 PM CT, March 13th, 2025, at which time they will be publicly opened and read aloud for the furnishing of materials, labor, equipment and skill required for the construction of Milling, Rap-Hot Mix Asphalt Overlay, Fiber HMA Additive and incidental items in and for said Barnes County, as is more fully described and set forth in the plans and specifications therefore, which are now on file in the office of the KLJ Engineering LLC.

Bids shall be upon cash payment on the following estimated quantities and types of work:
Contract Bond, 1.0 L SUM; Railway Protection Insurance, 1.0 L SUM; Common Excavation-Subcut, 300 CY; Water, 118 M GAL; Shoulder Preparation, 8 MILE; Aggregate Base Course CL 5, 916 TON; Fog Seal, 9,733 GAL; Milling Pavement Surface, 148,478 SY; RAP-Superpave FAA 43, 31,547 TON; Fiber HMA Additive, 4,114 LBS; Cored Sample, 312 EA; PG 58H-34 Asphalt Cement, 1,735 TON; Mobilization, 1.0 L SUM; Flagging, 800 MHR; Traffic Control Signs, 1,714 UNIT; Tubular Markers, 288 EA; Pilot Car, 400 HR; Bituminous Laboratory, 1.0 EA; Contractor's Laboratory, 1.0 EA; Geosynthetic Material Type R1, 900 SY; Rumble Strips – Asphalt Shoulder, 11.22 MILE; Rumble Strips – Intersection, 2 SET; Preformed Patterned PvmT Mk-Message (Grooved), 265 SF; Short Term 4IN Line – Type NR, 84,363 LF; PvmT Mk Painted 6IN Line, 133,335 LF.

The contract documents are on file and may be examined at the following:

KLJ Engineering LLC
1010, 4th Avenue SW
Valley City, North Dakota 58072

Complete digital project bidding documents are available at www.kljeng.com "Projects for Bid" or www.questcdn.com. You may download the digital plan documents for \$23 by inputting Quest project #9555666 on the website's Project Search page. Please contact Quest-CDN at (952) 233-1632 or info@questcdn.com for assistance in free membership registration, downloading, and working with this digital project information. An optional paper set of project documents is also available for a nonrefundable price of \$77 per set at KLJ, 1010 4th Avenue SW, Valley City, ND 58072. Please contact us at 701-845-4980.

All bids are to be submitted on the basis of cash payment for the work and materials, and each bid shall be accompanied by a separate envelope containing the contractor's license and bid security. The bid security must be in a sum equal to five per cent (5%) of the full amount of the bid and must be in the form of a bidder's bond. A bidder's bond must be executed by the bidder as principal and by a surety company authorized to do business in this state, conditioned that if the principal's bid be accepted and the contract awarded to the principal, the principal, within ten (10) days after notice of award, will execute and effect a contract in accordance with the terms of his bid and the bid bond as required by the laws of the State of North Dakota and the regulations and determinations of the governing body. If a successful bidder does not execute a contract within ten (10) days allowed, the bidder's bond must be forfeited to the governing body and the project awarded to the next lowest responsible bidder. All bidders must be licensed for the full amount of the bid as required by Section 43 07 07 and 43-07-12 of the North Dakota Century Code.

The successful Bidder will be required to furnish Contract Performance and Payment Bonds in the full amount of the contract.

Contracts shall be awarded on the basis of the low bid submitted by a responsible and responsive bidder for the aggregate sum of all bid items. A single contract be awarded for the work.

All bids will be contained in a sealed envelope, as above provided; plainly marked showing that such envelope contains a bid for the above project. In addition, the bidder shall place upon the exterior of such envelope the following information:

1. The work covered by the bidder
2. The name of the bidder
3. Separate envelope containing bid bond and a copy of North Dakota Contractor's License or certificate of renewal.

4. Acknowledgement of the Addenda. No Bid will be read or considered which does not fully comply with the above provisions as to Bond and licenses and any deficient Bid submitted will be resealed and returned to the Bidder immediately.

The work on the improvement will be completed by September 6th, 2025. The Owner reserves the right to reject any and all bids, to waive any informality in any bid, to hold all bids for a period not to exceed 30 days from the date of opening bids, and to accept the bid deemed most favorable to the interest of the Owner.

Should the Contractor fail to complete the work within the time required herein or within such extra time as may have been granted by formal extensions of time approved by the Owner, there will be deducted from any amount due the Contractor the sum of \$2,300 per day and every day that the completion of the work is delayed. The Contractor and his surety will be liable for any excess.

Such payment will be as and for liquidated damages. Dated this 21st day of February, 2025
BARNES COUNTY,
NORTH DAKOTA

s/Julie Mindt
Barnes County Auditor

(February 25th & March 4th, 2025)

BARNES COUNTY WEED BOARD
1525 12th St. NW
Valley City, ND 58072

Invitation for Bids
Sealed bids will be received until 1 PM on March 21st 2025 for one year's supply of noxious weed chemicals for the Barnes County Weed Board. The following chemicals are specified:

- a. Tordon 22K in 2 X 2 1/2
b. 24D Amine in 2 X 2 ½ with aquatic label
c. Rodeo or generic equivalent in 2 X 2 1/2
d. NIS surfactant in 2 X 2 1/2
e. Milestone in quarts
f. Highnoon 2x2 ½
g. E-2 in 2x2 ½
h. Freelexx in 2 x 2 1/2
Prices quoted to be FOB to Barnes County Weed Board, by May 8th, 2024.

The Barnes County Weed Board reserves the right to reject any and all bids or portions thereof and to waive any informalities therein. Mail sealed bids to Barnes County Weed Board, 1525 12th St NW, Valley City, ND 58072.

(February 25, 26, 27, & 28, 2025)

SECTION 00100
ADVERTISEMEnt FOR BIDS
FXS-0202(056), PCN 24339
BARNES COUNTY,
NORTH DAKOTA

Sealed bids will be received by Barnes County at the office of KLJ Engineering at 1010, 4th Avenue SW Valley City, ND 58072, until 1:30 PM CT, March 13th, 2025, at which time they will be publicly opened and read aloud for the furnishing of materials, labor, equipment and skill required for the construction of Gravel Surfacing, Full Depth Reclamation, Gravel Stabilization, Dust Palliative and incidental items in and for said Barnes County, as is more fully described and set forth in the plans and specifications therefore, which are now on file in the office of the KLJ Engineering LLC.

Bids shall be upon cash payment on the following estimated quantities and types of work:
Contract Bond, 1.0 L SUM; Water, 315 M GAL; Aggregate Surface Course CL 13, 12,813 TON; Full Depth Reclamation, 53,517 SY; Chemically Stabilized Gravel Surfacing, 308 STA; Mobilization, 1.0 L SUM; Flagging, 400 MHR; Traffic Control Signs, 965 UNIT; Pilot Car, 200 HR; Flat Sheet For Signs-Type Xi Refl Sheeting, 59.2 SF; Steel Galv Posts-Telescoping Perforated Tube, 141.6 LF; Dust Palliative Material, 24,634 Gal.

The contract documents are on file and may be examined at the following:

KLJ Engineering LLC
1010, 4th Avenue SW
Valley City, North Dakota 58072

Complete digital project bidding documents are available at www.kljeng.com "Projects for Bid" or www.questcdn.com. You may download the digital plan documents for \$23 by inputting Quest project #9555666 on the website's Project Search page. Please contact Quest-CDN at (952) 233-1632 or info@questcdn.com for assistance in free membership registration, downloading, and working with this digital project information. An optional paper set of project documents is also available for a nonrefundable price of \$77 per set at KLJ, 1010 4th Avenue SW, Valley City, ND 58072. Please contact us at 701-845-4980.

All bids are to be submitted on the basis of cash payment for the work and materials, and each bid shall be accompanied by a separate envelope containing the contractor's license and bid security. The bid security must be in a sum equal to five per cent (5%) of the full amount of the bid and must be in the form of a bidder's bond. A bidder's bond must be executed by the bidder as principal and by a surety company authorized to do business in this state, conditioned that if the principal's bid be accepted and the contract awarded to the principal, the principal, within ten (10) days after notice of award, will execute and effect a contract in accordance with the terms of his bid and the bid bond as required by the laws of the State of North Dakota and the regulations and determinations of the governing body. If a successful bidder does not execute a contract within ten (10) days allowed, the bidder's bond must be forfeited to the governing body and the project awarded to the next lowest responsible bidder. All bidders must be licensed for the full amount of the bid as required by Section 43 07 07 and 43-07-12 of the North Dakota Century Code.

The successful Bidder will be required to furnish Contract Performance and Payment Bonds in the full amount of the contract.

Contracts shall be awarded on the basis of the low bid submitted by a responsible and responsive bidder for the aggregate sum of all bid items. A single contract be awarded for the work.

All bids will be contained in a sealed envelope, as above provided; plainly marked showing that such envelope contains a bid for the above project. In addition, the bidder shall place upon the exterior of such envelope the following information:

1. The work covered by the bidder
2. The name of the bidder
3. Separate envelope containing bid bond and a copy of North Dakota Contractor's License or certificate of renewal.

4. Acknowledgement of the Addenda. No Bid will be read or considered which does not fully comply with the above provisions as to Bond and licenses and any deficient Bid submitted will be resealed and returned to the Bidder immediately.

The work on the improvement will be completed by September 27, 2025. The Owner reserves the right to reject any and all bids, to waive any informality in any bid, to hold all bids for a period not to exceed 30 days from the date of opening bids, and to accept the bid deemed most favorable to the interest of the Owner.

Should the Contractor fail to complete the work within the time required herein or within such extra time as may have been granted by formal extensions of time approved by the Owner, there will be deducted from any amount due the Contractor the sum of \$1,300 per day and every day that the completion of the work is delayed. The Contractor and his surety will be liable for any excess. Such payment will be as and for liquidated damages.

Dated this 21st day of February, 2025
BARNES COUNTY, NORTH
DAKOTA

s/Julie Mindt
Barnes County Auditor

(February 25th & March 4th, 2025)

Delvin J. Losing
Attorney ID#05697
OHNSTAD TWICHELL, P.C.
746 Front Street
P.O. Box 308
Casselton, ND 58012
(701) 347-4652
dlosing@ohnstadlaw.com

Attorney for Personal Representative
Court File No. 02-2025-PR-00006

IN THE DISTRICT COURT OF
BARNES COUNTY, STATE OF
NORTH DAKOTA

In the Matter of the Estate of
Kenneth Ray Neal Simmons,
Deceased

NOTICE TO CREDITORS

I, NOTICE IS HEREBY GIVEN that the undersigned has been appointed Personal Representative of the above estate. All persons having claims against the said deceased are required to present their claims within three months after the date of the first publication of this notice or said claims will be forever barred. Claims must either be presented to the attorney listed above, to Kevin E. Zaun as Personal Representative of the Estate at 3549 118th Avenue SE, Valley City, ND 58072, or filed with the Court.

Dated this 18th day of February, 2025.
/s/ Kevin E. Zaun
Kevin E. Zaun
Personal Representative of the Estate of
Kenneth Ray Neal Simmons, deceased
3549 118th Avenue SE
Valley City, ND 58072

(February 25, March 4 & 11, 2025)

CITY OF VALLEY CITY
NOTICE OF RESOLUTION
AND HEARING NOTICE

IS HEREBY GIVEN that the following resolution was duly adopted by the Board of Commissioners of the City of Valley City, North Dakota on February 4, 2025. The City Commission will meet to hear and determine sufficiency of protests at the date and time set forth therein. The owners of any real property within the described territory may file written protests with the City Auditor within 30 days after the first publication of the resolution. A copy of the resolution and annexation map are available for public inspection at City Hall, 254 2nd Ave NE, Valley City, during regular business hours.

RESOLUTION NO. 2473
WHEREAS, the Board of City Commissioners of the City of Valley City, North Dakota, desires to annex territory contiguous to the corporate limits of the City pursuant to Section 40-51.2-07 of the North Dakota Century Code, as amended.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF VALLEY CITY, BARNES COUNTY, NORTH DAKOTA:

1. That the boundaries of the City of Valley City, Barnes County, North Dakota, be and they are hereby extended so as to include and to incorporate within the corporate limits of the City of Valley City, Barnes County, North Dakota, the following tract(s) of land:

All of the previously unannexed portions of the following, as shown in the attached map:

Parcel A, Auditor's Lot Three (3), Lot Three (3) of Oxbow Addition, and Tract A Lot One (1) Block Three (3) of Woodland Park Subdivision all being in the Southeast Quarter (SE¼) of Section Twenty-nine (29); Parcels B and E being in the Northeast Quarter (NE¼) of Section Thirty-two (32); and Parcels C and D being in the Northwest Quarter (NW¼) of Section Thirty-three (33) all within Township Once Hundred Forty (140) North, Range Fifty-eight (58) West of the Fifth Principal Meridian, within Barnes County, North Dakota.

2. That a hearing to determine sufficiency of protests shall be held at 5:00pm on March 18, 2025, in the City Hall Commission Chambers.

3. That this Resolution and a Notice of Hearing shall be published in the official newspaper of the City of Valley City once a week for two consecutive weeks, with the first publication to take place at the earliest available opportunity.

4. That written protests may be filed with the City Finance Director protesting against the annexation within 30 days of the first publication of this Resolution.

5. That no later than March 3, 2025, a copy of this Resolution and Notice of Hearing shall be mailed by certified mail to the owners of each parcel of real property within the area to be annexed. The Notice must inform landowners of the resolution, the time and place of hearing, and the requirement that protests must be filed in writing.

6. That no later than March 11, 2025, a copy of this Resolution and Notice of Hearing shall be mailed by certified mail to each city, county and/or township directly affected by the land area proposed to be annexed.

7. That no state-owned property may be annexed without the written consent of the state agency or department having control of the property.

8. That in the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of this Resolution, the territory described in the resolution becomes a part of the city.

9. That when a copy of this Resolution and an accurate map of the annexed area, as certified by the President of the Board of City Commissioners, are filed and recorded with the county recorder, the annexation becomes effective.

Dated this 4th day of February, 2025.

APPROVED:
Dave Carlstrud, President
Board of City Commissioners

(February 18 & 25, 2025)

The IDEA Advisory Committee meeting will be held virtually from 9:00 a.m. (Central Time) to 12:00 p.m. on Thursday, March 6, 2025. If you have questions, please contact Michelle Souther at 701-328-2277.

Agenda items include: (1) IDEA-B Application, (2) Committee Work, (3) Legislative Update, (4) Mental Health and Absenteeism (5) Public Comment.

For further information or any special needs, contact Michelle Souther, Department of Public Instruction, Office of Specially Designed Services, 600 E Boulevard Ave., Dept. 201, Bismarck, ND 58505-0440, (701) 328-2277.

(February 25, 2025)

Barnes County Commission
February 4, 2025
Valley City, ND 58072

The Barnes County Commission met in regular session on Tuesday, February 4, 2025 with Bill Carlblom, Mike Schwehr, Vicky Lovell, Pete Paulson, and Shawn Olauson present. Chairman Bill Carlblom called the meeting to order at 8:00 a.m., roll call was taken, the Pledge of Allegiance was recited, and the agenda was reviewed.

Complaints

Roy Aaefdt appeared to cite four concerns he has. The train continues to block the crossing at County Road #21, at times for twenty plus minutes. Roy expressed safety concerns regarding the hill on 28th St SE. Crops continue to be planted right up next to the road, which makes it hard to see when wildlife cross out of the field onto the road. The intersection by his house has vehicles continuing right through the intersection without stopping at the stop signs. The township road upkeep is up to the townships to take care of. The county does not have authority to do anything on township roads unless the township requests it. The first step would be to start with the township to see what they are willing to do. The first big outing by the lake this spring will be patrolled by the Sheriff's Office.

Sheriff's Office
Randy McClafflin and Steve Loibl appeared to discuss two vehicle bids. One for a 2025 Ford Explorer quoted at \$50,546.00 and a 2025 Chevrolet Tahoe at \$55,495. Equipment from the current Explorer would be able to transfer to the new Explorer. There would not be a trade in. Vicky Lovell made a motion to accept the bid from Stoudt-Miller for the 2025 Ford Explorer. Shawn Olauson seconded the motion. The motion carried with all members voting yes upon roll call vote.

Corrections

Randy introduced Melissa Neitzke as a part-time employee who works at the Jail and the Sheriff's Office. Melissa and Anna Bernston requested the Guardian RFID with Command Cloud program at a cost of \$8,538.00 for the first year. The following years will be approximately \$4,000.00 plus supplies if needed

This is a device the size of a cell phone that staff will carry. This will decrease paper usage. Inmate movement, rounds, inmate observations are all on this device. A RFID chip goes on the outside of the cells and pods. It makes it easier for the person sitting in Master Control while making sure things are logged correctly. Everything is recorded in the Spartan which goes into a file. When the state comes, they can be shown the file, and they can see exactly what was going on. The cost will include wristbands, ink, laminator, and the printer. The Medication Manager, when available, will also cut down on medical variances and will help to ensure the right medications are going to the correct inmate so it will cut down on the medical liabilities. That piece is approximately \$1,700.00 per year when available. She is talking with CCHD to see if there will be grant funding available for that piece. Shawn Olauson made a motion to purchase the Guardian RFID program with wristbands; Pete Paulson seconded the motion. The motion carried with all members voting yes upon roll call vote. Jeremy Wolff presented boarding contracts for the commissioners to sign.

Auditor's Office

Shawn Olauson moved to approve the January 21, 2025, minutes as presented. Mike Schwehr seconded the motion. Motion carried upon roll call vote with all members voting "aye". Rooms at the Radisson for the NDAO convention were discussed. The Radisson charges an additional \$3.50 per night above the state rate for amenities such as swimming pool and exercise room use. The commission prefers to stay at the Radisson because of the location of the civic center where most activities take place and activities usually start at the Radisson.

State's Attorney

Tonya Duffy appeared to discuss remedies for the Mill Rate Calculation Error for the Valley City School District which impacts the Valley City Public School District. There are three options. The first option is to give the school the money and not retrieve it back. The second option is not to give them the money. The third option is to give them the money and have a conversation with the legislature to provide a legislative fix.

Commission Discussion

Pete Paulson gave updates on the VSO Office. The LaMoore County VSO contract is up for renewal in April. The Airport has been working on the electrical service panel update. They are putting out bids for a fiber-glass enclosure to go around the electrical panel. They are advertising for bids for repairing the NE corner of the fence. Shawn Olauson attended the Water Board Meeting. The Little Dam project is done. Thordenskjold Drain is looking at expanding the actual drain. The actual drain is in Norma township. The ground this drain goes into runs up into Cuba Township. Leftover money from the Little Dam project is being used for the Dam Survey on Clausen Springs. Clearing and Snagging was started and there are seven miles left to county line. The Brown Dam may be a straight removal. There is no access to Brown Dam. There is one opening in the call center for Buffalo Bridges. Three childcare workers have been reinstated. Mike Schwehr attended the City County Health District meeting. There was a discussion on stripping issues in the parking lot. South Central Human Services is looking for five more offices upstairs in the CCHD building for behavioral health. CCHD is trying to use grant dollars to provide the office space. Policy was discussed. Vicky Lovell attended the library meeting. They will be paying down their loan to reduce liability. The plumbing proposal for the basement bathroom is on hold. The financial policy was approved. Senior Council reported that the Salvation Army has cut back on paper products provided to the food pantry. The Senior Council provides meals seven days a week. They finished a remodel project. The senior council provides help for seniors to get into the Medicare Program. Bill Carlblom spoke of a trailer at the Highway Department that needs extensive repair. A new trailer may be a better option than sticking a large amount of money into the repair. The repair estimate is \$6,000.00. They will be getting a couple of estimates on a different trailer for comparison. There was a request from a private individual to use a courthouse room to do passport pictures. The consensus of the commissioners was that the county can't sponsor one private person over another. Greg Bischoff asked about the county supporting the water project he brought to us last summer.

Bills Approved for January 2025

General Fund: Advanced Business Methods Inc \$106.92, Aed Every-where \$106.43, Affac \$3,081.20, Affac Group Insurance \$48.45, All Flags Llc \$236.62 Amazon Capital Services \$3,803.76 Andrew S Marquart \$792.00, Axon Enterprise Inc \$9,095.10, Barnes County Audit or \$1,276.09, Barnes Rural Water \$255.60, Bek Communications Cooperative \$1,106.22, Blitz Tire & Service, Inc. \$24.91, Bong's Bootery \$149.90, Carlblom, William \$164.32, Cass County Electric \$406.83, Centurylink Az \$0.02, Charm-Tex Inc \$1,151.40, City County Health District \$9,363.75, Cna Surety \$50.00, Cole Papers Inc \$1,065.39, Colonial Life Insurance \$126.47, Counties Providing Technology \$2,817.00, Dacotah Bank Flex Acct \$1,416.00, Dacotah Bank Sd \$1,391.93, Dakota Business Solutions Inc \$100.00, Dickey Rural Telephone Coop \$86.43, Electro Watchman, Inc. \$1,721.40, Erickson, Anthony \$25.00, Everson, Jordyn \$13.80, FmJ Electric Llc \$6,118.25, Forum Communications Printing \$5,346.21, Grotberg Electric, Inc. \$88.44, Hagen, Sean \$25.00, Hardy Hardware & Rental \$978.62, Information Technology Department \$5,913.09, Intoximeters \$285.00, James-Valley Reg. Lodge \$162.68, Jenrich, Jessica \$128.43, Keith's Ac, Refrigeration, & Heat \$799.54, Klubben, Nicholas \$25.00, Knight, Matthew \$25.00, Kunze, James \$25.00, Leaf \$399.00, Leevers Foods \$87.90, Litchville Bulletin \$354.54, Lovell, Victoria \$181.32, Marco Inc St Louis \$1,393.00, McKesson Medical-Surgical Mn Suppl \$148.63, Midwest Pest Control \$155.00, Milint, Julie \$3.75, Montana-Dakota Utilities \$7,089.27, Mountain-Plains Youth Services Coa \$1,545.00, Nd Association of Counties \$13,302.00, Nd Chapter Of Apco \$180.00, Nd County Auditors Association \$500.00, Nd County Commissioners Associatio \$1,725.00, Nd County Recorders Association \$500.00, Nd Dept Of Corrections & Rehabilait \$150.00, Nd Dept Of Human Services \$133.18, Nd State Radio Communications \$360.00, Nd Winter Show \$250,000.00, Nd 911 Association \$100.00, Ndpra \$200.00, North Dakota Planning Association \$50.00, Opatz, Cameron \$25.00, Otis Elevator Company \$1,450.00, Peterson Mechanical Inc \$2,752.58, Petro Serve Usa \$3,200.50, Pharmchem Inc \$159.75, Polymer Products Inc \$200.00, Puklich Chevrolet Buick Gmc \$1,349.81, Pw Business Solutions Inc \$298.50, Quadiant Finance Usa Inc \$3,084.81, Ray Nelson Con-

struction \$6,397.79, Record Keepers, Lc \$70.00, Rj's Plumbing & Heating \$21.78, Sanford Health Occupation Medicine \$54.00, Scram Systems \$63.08, Secretary Of State \$36.00, Smith Lumber Company \$130.08, Steins, Inc. \$163.81, Stutsman County Correctional Cente \$400.00, Summit Foods Service Llc \$44,371.80, Superior Vision Services Inc \$655.20, Thiel, Jason \$143.89, Thomson Reuters -West \$379.05, Tyler Technologies Inc \$6,382.95, Valley Auto Parts \$138.25, Valley City Eagles \$1,735.48, Valley City Public Works \$3,774.88, Valley City Times-Record \$399.42, Valley Officeworks \$437.25, Valley Plains Equipment \$4,700.00, Vanguard Appraisals Inc \$650.00, Verizon Wireless \$3,140.55, Voelkner, Stephen \$25.00, Wagon Wheel Inn Ltd \$1,890.00, Weber, Devin \$25.00, Wilson, Dashae \$25.00, Wolff, Jeremy \$150.00, Total For Fund \$437,162.00, City County Health: City County Health District \$76,625.26, Total For Fund \$76,625.26, Veterans Service Office: Advanced Business Methods Inc \$159.15, Affac \$149.59, Bek Communications Cooperative \$35.53, Dacotah Bank Flex Acct \$42.00, Leevers Foods \$58.19, Petro Serve Usa \$289.67, Record Keepers, Lc \$7.88, Superior Vision Services Inc \$17.10, Thebo, Rebecca \$258.40, Verizon Wireless \$112.92, Wagon Wheel Inn Ltd \$550.00, Wells Fargo Bank Nc \$290.80, Total For Fund \$1,971.23, County Road And Bridge: A P Equipment Inc \$47.80, Affac \$685.12, Affac Group Insurance \$52.30, Barnes Co Treasurer \$63.49, Bayshore City Side \$100.94, Blitz Tire & Service, Inc. \$207.00, Butler Machinery Co. \$786.00, Chs Dakota Plains Ag \$1,996.33, Colonial Life Insurance \$59.04, Dacotah Bank Flex Acct \$636.00, Dacotah Bank Sd \$79.84, Fargo Freightliner \$26.39, General Equipment & Supplies \$140.90, Handy Hardware & Rental \$80.94, Inland Truck Parts & Service \$10,626.12, Klj Engineering Llc \$2,719.99, Kotaco \$2,753.74, Leevers Foods \$76.71, Linde Gas & Eq / Praxair \$229.40, Litchville Bulletin \$55.84, Little Falls Machine, Inc. \$1,395.34, Locators & Supplies, Inc. \$295.74, Metcalf, Jason \$80.29, Montana-Dakota Utilities \$401.41, Nd Association Of County Engineers \$835.00, Newman Outdoor Advertising - Jmst \$1,505.26, Northwest Tire Inc. \$46.93, O'reilly Auto Parts \$80.01, Ottertail Power Company - Jamestown \$129.62, Petro Serve Usa \$954.29, Powerplan Oib \$1,788.37, R & H Maintenance & Lawn Care \$640.00, Rhomar Industries Inc \$2,208.48, Ring, Eugene \$107.99, Sanford Health Occupation Medicine \$113.00, Suhr, Dustin \$220.95, Superior Vision Services Inc \$97.90, Tom Gilbertson & Sons \$150,440.00, Valley Auto Parts \$3,104.82, Valley City Public Works \$3,567.61, Valley City Times-Record \$124.00, Valley Officeworks \$150.50, Verizon Wireless \$99.42, Wd Larson Companies Ltd Inc \$32.52, Total For Fund \$189,843.34, Weed Control: Affac \$149.93, Agterra Technologies Inc \$1,000.00, Barnes Co Highway Dept \$89.75, Dacotah Bank Sd \$2,321.52, Handy Hardware & Rental \$99.89, Nd Weed Control Association \$470.00, Superior Vision Services Inc \$11.50, Verizon Wireless \$200.05, Total For Fund \$4,342.64, County Agent: Advanced Business Methods, Inc \$2,572.71, Affac \$33.50, Milender, Sue \$19.95, Ndsu Dept \$110 \$80.00, Ndsu Extension Services \$22,500.94, Superior Vision Services Inc \$11.50, Total For Fund \$25,218.60, Farm To Market 15 Mill: Ottertail Power Company - Jamestown \$66.79, Total For Fund \$66.79, B.C. Economic Dev Fund: Vc-Bc Development Corporation \$25,000.00, Total For Fund \$25,000.00, Community Service: Valley Officeworks \$719.99, Verizon Wireless \$84.08, Total For Fund \$804.07, Grants And Projects: Anderson, Tara \$1,600.00, Canadian Pacific Railroad \$3.56, Dream Center \$200.00, Giesler, Danielle \$750.00, Irvin Hone \$3.02, Jason Allen Aaseth \$10.21, Kaitlin Devitt \$25.16, Karen M Anderson \$5.81, Keller, Constance \$200.00, Kocak, Brenda \$336.25, Lorinser, Kristi \$300.00, Lorinser, Macy Lynn \$255.00, Michael S Heinze \$3.26, Nathan & Allison Mcmenamin \$28.48, Owen Johnson \$226.94, Patty Myers \$5.90, Robert C Drake \$66.49, Ronald & Janna M Thoreson \$81.10, Sarah Pruett \$9.91, Suzanne M Mosley \$2.26, Swenson, Allison \$540.00, Tamara Drake \$19.97, Thomas & Diane Van Dehey \$21.21, Zent, Julie \$684.14, Total For Fund \$5,361.36, Township Tap Fund Fnd: Klj Engineering Llc \$11,798.62, Total For Fund \$11,798.62, Soil Conservation: Barnes Co Soil Conserv. Dist. \$29,666.99, Total For Fund \$29,066.99, Garrison Conservancy Dist: Garrison Diversion Cons Dist \$19,651.84, Total For Fund \$19,651.84, Airport: Barnes Co Municipal Airport \$45,999.61, Total For Fund \$45,999.61, State Funds: Nd State Treasurer \$19,189.94, Total For Fund \$19,189.94, Older Persons: South Central Adult Services \$38,311.06, Total For Fund \$38,311.06, Ambulance: Barnes County Ambulance \$57,368.16, Total For Fund \$57,368.16, Water Resources: Comstock Construction Inc \$778,050.00, Superior Vision Services Inc \$11.50, Total For Fund \$778,061.50, Historical Society: Barnes Co Historical Society \$14,366.00, Total For Fund \$14,366.00, Library: Valley City Public Library \$39,291.83, Total For Fund \$39,291.83, Recorders Preservation Ff: Nelson, Jodie \$1,715.00, Inff, Jody \$1,750.00, Residence Inn Bismarck North \$198.00, Total For Fund \$3,663.00, Cities: Dazey \$2,543.51, Fingal \$4,663.98, Kathryn \$1,944.07, Leal \$258.66, Litchville \$5,181.86, Nome \$1,454.71, Oriska \$2,280.42, Pillsbury \$115.61, Rogers \$1,196.45, Sanborn \$3,847.73, Sibley \$2

Municipal Infrastructure Fund for Valley City

Biennium

	July 1, 2019 - June 30, 2021		July 1, 2021 - June 30, 2023		July 1, 2023 - June 30, 2025		July 1, 2025 - June 30, 2027		July 1, 2027 - June 30, 2029	
Fund 295	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Revenue Source:	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Prairie Dog Bill	\$2,500,000		\$2,500,000	\$1,160,652	\$2,500,000.00	\$934,329.07				
Less: Designated for New Dev	-\$250,000		-\$250,000	-\$116,065	-\$250,000.00	-\$93,432.91				
Plus: Prior Year Ending Balance:	\$0	\$2,250,000	\$16,032	\$2,266,032	\$3,310,619.00	\$2,250,000.00	\$3,090,896.16	\$3,090,896.16	\$3,090,896.16	3,090,896.16
Less Trfs Out (7th Ave NW)	\$0	-\$2,233,968								
NW Storm Sewer Phase II					-\$2,688,476					
2nd Ave NE/3rd Ave NE Recon- Approved 5.2.23					-\$622,143					
Undesignated Balance:	\$2,250,000	\$16,032	\$2,266,032	\$3,310,619	\$2,250,000.00	\$3,090,896.16	\$3,090,896.16	\$3,090,896.16	\$3,090,896.16	\$3,090,896

	2020	2021	2022	2023	2024	2025	Total
Designated for New Development:	\$250,000	\$0	\$250,000	\$116,065	\$250,000	\$93,433	\$959,498

Legend

Snow Hauled Away

— <all other values>

SNOWHAULED

— No

— Yes

