

City of Ada
Regular Meeting of the City Council
Tuesday, June 2, 2015 – 6:00 P.M. – Council Chambers

Agenda

- I. Call to Order**
- II. Pledge of Allegiance**
- III. Roll Call**

- IV. Citizen Forum** – *Individuals may address the council about any item of concern. A maximum of 15 minutes is allotted for the forum. If the full 15 minutes are not needed for the forum, the City Council will continue with the agenda. The City Council will take no official action on items discussed at the forum, with the exception of referral to staff or commission for future report.*

- V. Consent Agenda** – *These items are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which event the item will be removed from the Consent Agenda and placed elsewhere on the agenda.*
 - A.** May 5 & 14, 2015 Council Meeting minutes
 - B.** City Pre – paid checks
 - C.** City Accounts payables

- VI. Approve Agenda** – *No item of business shall be considered unless it appears on the agenda for the meeting. Council Members may add items to the agenda by a majority vote of the council.*

- VII. External Presentations with possible discussion and decision.**
 - A.**

- VIII. Reports of Department Heads and Committees**
 - A.** Mayors Report
 - 1)

 - B.** Administrator / Clerk / Treasurer Report.
 - 1) Department Updates.
 - 2) Staffing recommendation at Public Works due to Kappes retirement.

IX. Old Business

- A. Update and spending request for PoolPak.
- B. Liquor Store Business Plan.

X. New Business

- A. Kaleidoscope guests
- B. First Reading – Ordinance 460 – Regulating Public Nuisances.
- C. First Reading – Ordinance 461 – Establishing a Tree Ordinance.
- D. First Reading – Ordinance 462 – Ada Floodplain Ordinance.
- E. Appoint member to Economic Development Authority.
- F. Compensation to part – time staff for certifications.
- G. State tax on garbage fuel surcharge.

XI. Adjournment

4/30/2015

Interim Combined Statement of Cash and Investments

Fund	Cash Balance 3/31/2015	Investment Balance 3/31/2015	April Cash Debits	April Cash Credits	April Invest Debits	April Invest Credits	Balance 4/30/2015
General Fund	(491,526.68)	367,170.77	125,859.31	214,228.84			(212,725.44)
	0.00						0.00
Special Revenue Funds:							0.00
TIF District 2-1 Redevelopment	0.00						
TIF District 2-2 Housing	40,661.06						40,661.06
TIF District 2-3 Housing	2,803.90	0.00					2,803.90
Ada Revitalization Project '88 Revolving Loan	11,916.79	3,568.70		5,300.00			10,185.49
Ada Economic Development Revolving Loan	79,332.32		443.96				79,776.28
Library	(37,102.06)	40,566.63	1,126.45	1,703.82			2,887.20
Community Center Maintenance Fund	(210,113.29)	696,487.52	0.00	0.00			486,374.23
Recreation Development Fund	(845.73)	40,000.00	6,068.95	6,068.95			39,154.27
Long Term Designated Capital	316,239.29	613,602.03	0.21	13,643.75			916,197.78
Public Works	27,189.43	4,690.92	0.00	0.00			31,880.35
Capital Project - Highway 9	0.00		0.00				0.00
Capital Project - Emergency Services Building	0.00						0.00
Capital Project - Lift Station / Force Main Project	(57,143.81)		270,202.41	271,002.41			(57,943.81)
Capital Project - New Well	658,429.37	0.00	5,800.00	5,800.00			658,429.37
	0.00						0.00
Debt Service Funds:							0.00
2008 Lease Purchase Fire Hall	58,059.30		6,152.18	0.00			64,211.48
2003 G. O. Improvement Bonds (Street Project)	69,001.85	3,539.73					72,541.58
1999 G. O. Water / Sewer Rev Bonds	0.00						0.00
2000 G. O. Improvement Bonds	0.00			0.00			0.00
	0.00						0.00
Enterprise Funds:							0.00
Water and Sewer Fund	(602,049.69)	82,914.83	57,478.19	90,376.92			(552,033.59)
Electric Utility	526,859.37	10,179.15	240,735.00	210,953.05			566,820.47
Hospital	229,487.19	599,846.84	15.22				829,349.25
Liquor	268,652.74	1,237.75	47,922.95	51,792.23			266,021.21
Total - All Funds	889,851.35	2,463,804.87	761,804.83	870,869.97	0.00	0.00	3,244,591.08
Frandsen Bank - Checking							750499.63
Frandsen Bank - Savings							15,071.35
Frandsen Bank - Money Market - general							0.00
Frandsen Bank - Money Market - LT Des							25,911.27
Frandsen Bank - Fire Insurance Proceeds							10.00
Frandsen Bank - CD's							478,000.00
Bank of the West Money Market (General)							0.00
Bank of the West Money Market (Bridges)							185,206.04
BancWest Investment Services (Bridges)							599,831.13
BancWest Investment Services (Maintenance Funds)							700,613.73
BancWest Investment Services (General)							269,394.69
BancWest Investment Services (LT Des Cap)							220,053.24
Smith Barney CD's							0.00
American Federal Bank Money Market (03 Imp Bonds)							0.00
Total Balances 4-30-2015							3,244,591.08

City of Ada
Minutes of the Regular City Council Meeting
May 5, 2015 – 6:00 p.m. – City Hall

Members present: Mayor Ellefson, Members Candy Robertson, John Rosenberger, Neil Miller, Craig Edwards, Jim Hansen, Rich Pinsonneault.

Others present: Mark Potucek, James Leiman, and others.

IV. Citizen Forum. Community Event Center. (Member Neil Miller removed himself from this portion of the meeting due to conflict of interest as the owner of Tubby's Tavern.) Mark Potucek spoke on behalf of the Chamber and Ada Area Promotions Committee in regards to having a public meeting place in the event that Tubby's Tavern is sold and not available for that purpose.

V. Consent agenda. Listed on the consent agenda was: April 7, 2015 Council Meeting minutes, City pre – paid checks in the amount of \$448,950.36, City Accounts payable in the amount of \$56,397.61, approve hiring Andrew Stene as a Compost attendant / mosquito sprayer and Ismal Ishalam as Public Works Summer Labor.

Motion by Member Edwards, second by Member Robertson to approve the consent agenda. Members voting for: Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

VI. Approve agenda. Added to the agenda was: Audit Report from Brady Martz, Moore Engineering, Three – phase power, Park Street discussion, event center discussion, test well discussion. The 2016 Ballot Referendum for continuation of On – sale operation at Ada Municipal Liquor Store was removed.

Motion by Member Rosenberger, second by Member Miller to approve the agenda with changes. Members voting for: Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

X. B. New Business. Pool pak bid opening. James opened the bid from Trane and stated the bid was at about \$178,000.00. The second bid was from Northstar Water, Heating & A/C in the amount of \$98,500.00 which would be for a unit installed at ground level off the west end of the pool.

Motion by Member Pinsonneault, second by Member Edwards to bring back additional information to the next council meeting.

Motion by Member Pinsonneault, second by Member Hansen amend the original motion to authorize the Administrator to obtain the services of a mechanical engineer to review the project. Members voting for the amendment to the motion: Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

Members voting for the original motion as amended: Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

VII. A. External Presentations with possible discussion and decision. Monte Eastvold – Northland Securities – Resolution 2015-05-01 – Issuance of Refunding Bonds.

Motion by Member Pinsonneault, second by Member Edwards to approve Resolution 2015-05-01. Members voting for: Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

B. Brady Martz – 2014 Audit Report. Brian Opsahl presented the 2014 Audit to the Council.

VIII. A. Mayor’s Report. Interviews for vacant council seat. Mike Triplett, Rod Erickson, Kim Lewis, and John Hintz expressed interest in the open council seat. The council interviewed Mike Triplett, the others were unavailable for interviews. The council voted by ballot. John Hintz received three votes, Mike Triplett received two votes and Rod Erickson received one vote. John will be sworn in at the next council meeting.

B. 1. Moore Engineering. Tyson presented a partial payment request for the Well Project in the amount of \$122,862.84. There is also a change order for \$2,896.00 for the project as well.

Motion by Member Pinsonneault, second by Member Edwards to approve the change order in the amount of \$2,896.00. Members voting for: Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

Motion by Member Edwards, second by Member Robertson to approve the partial payment for the well project in the amount of \$122,862.84. Members voting for: Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

Motion by Member Pinsonneault, second by Member Rosenberger to approve a payment request from Moore Engineering in the amount of \$5,800.00 for the well improvements, \$825.00 for work related to MN Greater Gas and \$955.00 related to waste water

permitting. Members voting for: Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

2. Test well. The Public Works Board asked if they could develop the test well instead of capping it. Tyson stated that they aren't planning to cap it in the near future.

3. Park Street. Tyson stated that with the potential of increased business and jobs, there might be grant funding available to fix Park Street. Tyson and James will gather information that is available and get together with the council for a special meeting in a week.

VIII. B. Administrator / Clerk / Treasurer Report. Community Appreciation Day. James gave an update on the event on May 19th. He also stated that Gary Cares raised \$1,000 towards the event. James went over the Corporate Membership campaign.

Liquor Store Business Plan. James went over his plan for the Liquor Store which included a marketing plan focused on the off – sale.

Public Works Update. James stated that they have been busy with locating for the trees that are being given out. They are also going to require two of the Public Works employees get their certification to be a Certified Pool Operator to help out at the Dekko if needed.

Public Safety. The Ada PD received recognition for their outstanding National Night Out event in 2014. They also worked in conjunction with Border Patrol to conduct drug searches at the school and were pleased to announce they didn't find any drugs.

IX. A. Old Business. Garbage rates for Home Businesses. James recommended eliminating the charge for home businesses.

Motion by Member Pinsonneault, second by Member Rosenberger to authorize the Administrator to prepare a resolution to eliminate the garbage rate for home businesses. Members voting for: Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

B. City Hall Sale Criteria. James stated that a business plan and documentation of their liquidity would need to be provided.

D. Protocol for Hiring and Termination of part – time and seasonal employees and enforcement of full – time employee personnel policy. The council discussed the two options provided by the Administrator and also changes to the Administrator job description.

Motion by Member Pinsonneault, second by Member Robertson to authorize the Administrator to bring a resolution forward which is reflective of option 2 as provided and also change the Administrator job description to require a 4 year degree in business with a preferred MBA. Members voting for: Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

X. A. New Business. Kaleidoscope guests. Member Robertson and James Leiman volunteered.

B. Three – phase power. Member Hansen stated that a lot of people cause a spike in demand but not everybody pays for it. He would like to see this charge removed which he felt would help existing businesses and attract new ones. James stated this would cause a loss of revenue of about \$20,000 per month which would need to be recouped. James will research the options.

C. Sale of lots in Cougar Addition. James stated there is a couple interested in purchasing Lots 7 & 8 Block Two in Cougar Addition. Historically the city council has not allowed the purchase of more than one lot for a single house. There is also 25' of Lot 6 that is available that both the new family and the Thom family have expressed interest in. There is also Lot 3 Block 3 that was requested to be purchase in the past by the neighboring property and were told they couldn't buy a second lot. They would be interested in the lot if the city allows it.

Motion by Member Hansen, second by Member Miller to authorize the sale of Lots 7 & 8 in Block 2 of Cougar Addition. Members voting for: Robertson, Rosenberger, Miller, Hansen, Pinsonneault. Against: Edwards. Motion passed.

Motion by Member Miller, second by Member Rosenberger to accept the highest bidder for the 25' of Lot 6 Block 2 in Cougar Addition. Members voting for: Rosenberger, Miller, Hansen, Pinsonneault. Against: Robertson, Edwards.

D. Resolution 2015-05-02 – Summerfield Refunding Bonds. Summerfield Place is refinancing and needs authorization from the City due to the connection through the EDA in the Joint Powers Agreement.

Motion by Member Pinsonneault, second by Member Hansen to approve Resolution 2015-05-02. Members voting for: Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

E. Community Event Center – Tubby's Tavern building. Member Miller removed himself from the meeting as he has a conflict of interest as the owner of Tubby's Tavern. The council discussed different options to try to entertain the idea of a community event center.

Motion by Member Edwards, second by Member Hansen to table this item. Members voting for: Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

XI. Motion by Member Edwards, second by Member Robertson to adjourn the meeting at 8:49 p.m. Members voting for: Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

Respectfully submitted,

James Leiman
City Administrator / Clerk / Treasurer

Jim Ellefson
Mayor

City of Ada
Minutes of the Special City Council Meeting
May 14, 2015 – 6:00 p.m.
City Hall

Members present: Mayor Jim Ellefson, Members Candy Robertson, John Rosenberger, Neil Miller, Craig Edwards, Jim Hansen, Rich Pinsonneault.

Others present: James Leiman, John Hintz, and others.

IV. Swear in John Hintz. John Hintz took the Oath of Office as Council Member At Large.

V. Economic Development. Infrastructure for North Industrial Park and Tax Increment Financing Districts. The council discussed establishing TIF Districts in both industrial parks. The initial expense is roughly \$7,000 but the city could use the money captured for street or other improvements.

Motion by Member Robertson, second by Member Edwards to approve Resolution 2015-05-06 – Calling Public Hearing on the Proposed Adoptions of Business Subsidy Criteria set for July 7, 2015. Members voting for: Hintz, Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

Motion by Member Rosenberger, second by Member Miller to approve Resolution 2015-05-07 – Calling Public Hearing on the Establishment of Tax Increment Financing District No. 2-4 within municipal development district No. 2 and the Tax Increment Financing Plan related thereto. Members voting for: Hintz, Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

VI. Utility breaks for commercial businesses headquartered in Ada. Council directed Administrator to research both utility incentives for existing and expanding businesses.

VII. Resolution 2015-05-03 – Sale of Lot 7 & 8 Block 2, Cougar Addition to Alex and Emily Ranz.

Motion by Member Pinsonneault, second by Member Hansen to approve Resolution 2015-05-03. Members voting for: Hintz, Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

VIII. Resolution 2015-05-04 – Sale of Lot 6 – Less the South 65' Block 2, Cougar Addition to Stephen and Valerie Thom.

Motion by Member Robertson, second by Member Hansen to approve Resolution 2015-05-04. Members voting for: Hintz, Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

IX. Resolution 2015-05-05 - A Resolution Expanding Administrator Authority To Hire And Terminate Part-Time And Seasonal Employees And Implement Punitive Action As Necessary For Fulltime Employees.

Motion by Member Miller, second by Member Rosenberger to approve Resolution 2015-05-05. Members voting for: Hintz, Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

X. Discuss Tubby's Tavern (at request of EDA). Jim Birkemeyer and Todd Sawrey presented a business case to research options associated with the city pursuing the potential for acquiring part of the Tubby's Tavern building to have a municipal events facility. Several options were discussed to include purchase arrangements and long-term rentals involving community groups and the city. A Task Force was discussed to be led by the EDA to pursue researching these options and reporting back to the council what is discovered. In addition, the Administrator will research any legal hurdles.

Motion by Member Edwards, second by Member Hansen to proceed with the research. Members voting for: Hintz, Robertson, Rosenberger, Miller, Edwards, Hansen. Against: Pinsonneault. Motion passed.

XI. Motion by Member Hansen, second by Member Edwards to adjourn the meeting at 7:18 p.m. Members voting for: Hintz, Robertson, Rosenberger, Miller, Edwards, Hansen, Pinsonneault. Against: None. Motion passed.

Respectfully submitted,

James Leiman
City Administrator / Clerk / Treasurer

Jim Ellefson
Mayor

PUBLIC SAFETY COMMITTEE MEETING
Public Safety Meeting
Monday, May 18th, 2015
5:30 p.m.

PRESENT: **JODY BUENG**
 GREG HOLMVIK
 STEVE PETRY
 JOHN ROSENBERGER
 BOB JOHNSON

ABSENT: HALLS, EDWARDS, BAKER, ROUX,

1. Meeting called to order at 5:34 p.m.
2. Roll call.
3. Last Minutes approved. Motion Bob J, Second by Greg H.
4. Additions to the agenda: None

EMS BUSINESS:

1. NONE

FIRE DEPARTMENT:

1. Steve shared pictures of the new pumper progress. Hoping for a June arrival.
2. State has allocated \$2716.00 for training. So far they have used \$970.00
3. Steve mentioned they may be coming forward with a request for new equipment to fight fires like the recent grass fire in Borup. Steve stated that they do have some Money available for the items they need.

POLICE

1. Jody spoke about recently attending the Chief's Convention in St Cloud.
2. Officers also attended a regional TZD conference.
3. Jody reported two officers completed State mandated courses in driving training and Pursuit intervention. (PIT)

Meeting adjourned at 5:50.

EDA Minutes

05/27/2015

Meeting Called to Order at 8:04 AM

Roll Call: Present were Todd Sawrey, Jim Birkemeyer, Richard Pinsoneault, James Leiman and Greg Slotten. Also present was John Hinz as a potential City Representative

Approval of Minutes: Motion by Rich; 2nd by Jim

Old Business:

Website Update: No change to status from last meeting. Kicking off soon.

Downtown Store Fronts:

- 1) James & Todd will be visiting with owners
- 2) Candy Kolness has had offers to buy but she is holding off for a better price
- 3) Bob Kinkade is willing to sublet
- 4) EDA is encouraging Fjeld to sell. Continuing to work with Fjeld
- 5) Kristi & Ron-Photoshop

Vacant Lots: No update. Need current updated map

WR Property: Building torn down; Banner up-Progressing

Cougar Addition Update: Have one lot left and have an interested party to purchase. Question brought up is how do we develop more lots feasibly? City has been in contact with Cam Fanfulik to help with identifying City's Economic Viability to develop Housing. This would be a comprehensive review including infrastructure & beautification. Cost \$30,000 and can be completed in 6 months.

AAPC: USDA Loan Closing in June; Looking at TIF; have not applied for permit.

Old City Hall: Still trying to determine criteria for use or to sell. There appears to be some outside interest but no follow through.

New Business:

- 1) Revolving Loan Fund Applications:
 - a. Greg Balzum for home demolition; Motion made by Rich and 2nd by Jim to approve as long as it complies with EDA & City Guidelines/Polcies/Procedures
 - b. Kappes Design & Metal Work Applied for a EDA Loan. EDA Board tables request due to needing more information.
- 2) USDA Revolving Loan Fund:
 - a. James has been in contact with Jonathan Smith, City Admin from Frazee and with Andrew from USDA in Detroit Lakes. Looking a Rural Business Development Grant. There are a lot of areas one can apply for grants. Different levels have different criteria. Discussions on used of grant funds. Most popular at this time was store front improvements and/or internal store improvements. Motion made by Rich and 2nd by Jim for approval to have James request a \$99,000 grant on behalf of EDA-Approved.
- 3) Todd handed out the ADA Revolving Loan Fund program guidelines and application and the Commercial Storefront Renovation Loan Program. Todd requested that all EDA members review and come with suggested improvements and recommended changes at next EDA meeting.

Treasure Report: No Report

Confirmed Next Meeting: 8 AM; June 25th 2015; Location Dekko

Adjournment: 9:02am Motion by Jim Birkemeyer, Second Greg Slotten

MINUTES OF THE PUBLIC WORKS BOARD MEETING

May, 26, 2015

Members present: Craig Edwards, Vernon Habeck, Bob Ramstad.

Members Absent: Paul Bergman, Kim Lewis, Rodney Erickson.

Also present: Brian Rasmusson.

Call meeting to order. 5:50 pm

Craig Edwards called the meeting to order.

Approve minutes: April 27, 2015 regular meeting, Motion, Habeck, 2nd Ramstad. All in favor, motion passed.

Items added to agenda: None

Approve agenda: Motion: Ramstad, 2nd Habeck. All in favor, motion passed.

Old business:

Water:

Brian updated the board on the new well project (Well #5) there had been about a two week delay on the project due to wet weather. May 26th the project started back up and the walls have been framed, most of the cement has been poured, once the building is enclosed the project should move along quickly.

Sewer:

None

Electric:

Brian updated the board on the proposed xcel contract extension. Eric Pierce contacted Brian to get a copy of the proposal the Ed Johnson had sent. Eric was going to review the proposal and then set up a meeting with the Public Works Board to go thru the proposal.

Street: None

Other: None

New business:

Water:

Brian asked the board about doing something with Olga Merkins water service to stop it from freezing, as it has froze up the last two winters. Brian will get an estimate to dig it up in the street and insulate it. I will bring the estimate to the next Public works board meeting.

Sewer: None

Electric: None

Street: None

Other: None

Next meeting: June29, 2015 at 5:30pm

Adjourn meeting: Motion Ramstad, 2nd Habeck. All in favor, motion passed 6:23pm.

John Kappes Backfill

Issue: Public Works is now operating at 80% capacity. John Kappes was the Electrical Superintendent however a majority of his work focused on day to day operations. Therefore, Public Works is operating sans one full-time employee that had over 31 years of knowledge resulting in what could potentially be difficult for the City of Ada. Difficulties may include longer service and wait times for residents along with neglect to critical infrastructure. In addition, although not official, there is the potential for another retirement in December of this year. This will create an intellectual capital gap of over 60 years and make it very difficult for Public Works to fulfill its basic mission obligations.

Options:

1. Not hire into John's position and leave a gap of coverage and services. Critical work will be accomplished however it will be difficult to keep up with daily operations in a timely manner. Electrical services will be accomplished via task orders associated with the Red River Valley Co-Op however it is important to note that Public Works services in the aggregate will be impacted.
2. Backfill into John's position with a Public Works Maintenance Specialist II. Given the Red River Valley Co-Op agreement, the City of Ada no longer requires an Electrical Superintendent. This will enable a qualified professional to hit the ground running and learn the nuances of Ada's public infrastructure resulting in full Public Works coverage and a reduction in salary expenses of roughly \$20,000 per year.
3. Option two plus return to a Public Works model involving a Director versus two supervisors. This will save the City of Ada roughly \$15,000-\$20,000 per year in the aggregate and create a more effective command and control model for the city's management structure.

Recommendation: The City Administrator recommends option three. Post the position for Public Works Director (Salary \$53,514-\$69,823 using current grade structure; per League of MN Cities, average PW Director in our region in similar sized cities makes \$58K) on June 5th and leave it open for two weeks. Interview the last week of June and make a formal recommendation to the Council on July 7th. Request that one Councilmember interview candidates with me.

Hire vice John Kappes' position with a Public Works Maintenance Specialist II at current salary as negotiated by labor. Advertise position on June 5th and leave it open for two weeks. Interview candidates with Brian Rasmussen the last week of June and make recommendation on July 7th.

Dekko Improvement Update and Request

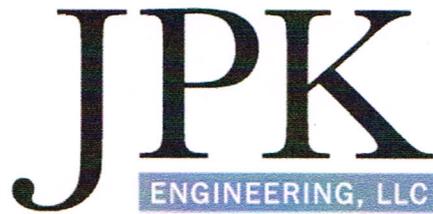
Issue: Maintenance at the Dekko Center has been postponed for several years and upgrades are necessary in order to position the facility to be successful. In April, the City Administrator requested \$173,000 from the Dekko Maintenance Fund however new revelations concerning dehumidification designs have increased the request to \$199,000.

On May 5, 2015, the City of Ada opened bids that were solicited to provide dehumidification capabilities to the Dekko facility. Two bids were received with radically different designs including one that was untraditional and one that was traditional. JPK Engineering in Fargo was consulted for subject matter expertise where it was revealed that the PoolPak unit was a more suitable design for the center. As such, the Trane Corporation was contacted and negotiations ensured. The price was reduced from \$178,000 to \$145,000 with the caveat that work be completed in early November vice August. The new request is below for equipment in bold for updates.

- Carpet - ~~\$10,000-\$12,000~~ **\$10,000**
- Fitness Center Improvements (phase one) - ~~\$18,000~~ **\$17,000**
- Pool Repair Diving Board - ~~\$4,800~~ **\$5,000**
 - Pool inflatables play products - ~~\$6,500~~ **\$6,000**
- Wading Pool repairs - ~~\$7,000-\$10,000~~ **\$10,000**
- Outside Wading Pool Lounge Area (awning/ chairs) – ~~\$3,000~~ **\$2,000**
- ~~Commercial Air Purifications 3 Units – \$5,400~~
- ~~Locker Room shower area improvements – \$8,000~~
- Outside lighting - ~~\$3,300~~ **\$3,000**
- External beautification- ~~\$2,000~~ **\$1,000**
- Pool Dehumidification mechanism (estimate \$100K – bids to be opened on May 5th following RFP process) **\$145,000**

Total \$199,000

Request: Increase spending for Dekko improvements to \$199,000 vice \$173,000. Also, the City Administrator is working with the Dekko Foundation on a grant application submitted in February; there is a good chance that various Dekko Foundation personnel will visit Ada in July, help the city revise the grant and then pursue board action to complete repairs and replacements in the facility.



May 19, 2015

City of Ada
Ada, MN

Attn.: James Leiman, City Administrator,
Clerk and Treasurer

Re.: Pool Ventilation Unit

The purpose of this letter is to serve as a general review and recommendation of the mechanical bids received by the city. Please be advised that the proposals reviewed do not include detailed equipment sizing and, therefore, this review is not providing any recommendations in regards to unit or system performance.

Two quotes were forwarded to our office and reviewed (attached). These quotes were for a Titan pool makeup air unit from North Star Water A/C and Heating and a PoolPak unit from Trane. Following is a brief explanation of each proposed system and the recommendations for each:

Titan Pool Makeup Air Unit

This unit consists of a fan and gas heater capable of mixing humid return air from the pool space and dry outside air, heating that air and supplying the air mixture back into the pool space. The combination of exhausted air and dry, fresh intake air act to maintain the pool space humidity level. This is a simple method of humidity control without any method of energy recovery. This system does not have any mechanical cooling, and thus is unable to maintain humidity control of the pool space when outdoor conditions become warm and humid. The large majority of cost of this option appears to be associated with the building addition to house the unit itself.

PoolPak Unit

This unit consists of a fan, heat recovery module and gas heater capable of reclaiming heat from the air being exhaust to pre-heat the incoming outside air. The dry, fresh air is heated to maintain pool space temperature and humidity levels. This system also does not have any mechanical cooling, and thus is unable to maintain humidity control of the pool space when outdoor conditions become warm and humid. This unit should provide operational cost savings over the first option due to the heat recovery capabilities. The costs provided for this option seem on the high end of the range for this type of system.

In conclusion, I would suggest that the PoolPak unit is better suited to serve the associated pool space with a lower operating cost and no unnecessary building addition construction. I would also recommend getting at least one more competitive price for comparison with the second option. Please contact our office with any questions on this report or desired assistance in acquiring comparable proposals. Thank you.

Sincerely,



Jamie P. Kronbeck, PE
JPK Engineering, LLC



Dekko Community Center

PoolPak Replacement



Prepared For

Larry Millender
Director of Facilities
City of Ada
9 East Fifth Avenue
Ada, MN 56510

E-mail: dekko@loretel.net

Local Trane Office

Trane U.S. Inc. dba Trane
3417 7th Avenue North
Fargo, ND 58102

PROPOSAL ID
1828631

DATE
May 22, 2015

Local Trane Representative

Cameron Sigecan
Account Manager
Cell: (701) 936-4678
Office: (701) 235-0521

E-mail: cameron.sigecan@trane.com





May 22, 2015

Larry Millender
Director of Facilities
City of Ada
9 East Fifth Avenue
Ada, MN 56510

Site Address:
Dekko Community Center
107 East 4th Avenue
Ada, MN 56510

Subject: PoolPak Replacement 2015

Dear Larry,

Thank you for the opportunity to prepare a quote for installation of the dehumidification solution for the above property. Per our meetings and conversations, this proposal has been prepared based on the following Scope

Scope of Service – PoolPak Replacement

- See Appendix A – Bid Specifications
- Pool Pak VHR
 - This system does not use any refrigeration and will not provide cooling
 - This system uses 100% outside air to dehumidify the space
 - Maintenance is substantially less not having refrigeration options within the unit (i.e. compressors / evap. / condenser coils).
- Remove and dispose of existing roof mounted pool dehumidification unit
- Install new roof mounted pool dehumidification unit
- Reconnect to existing duct work
- Includes crane service
- Provide control for the dehumidification unit in the pool area space
- Includes electrical
- Includes New Unit Duct Heater to replace the two existing
- Includes New Controls
- Freight
- All associated shipping and unloading costs
- Start-up of new PoolPak replacement unit by Authorized PoolPak Technician
- One-year parts and labor warranty on new equipment
- Owners Training provided by Authorized PoolPak Technician

Total PoolPak Replacement Price: \$ 145,000.00

Proposal Notes/ Clarifications

- All work to be performed during normal business hours (8am to 5pm, M-F, non-holidays)
- Any roofing repairs that are necessary will be the responsibility of the Owner
- Proposal does not include "Premium Time" or Price Contingency
- Equipment Order Release and Services rendered are dependent on receipt of PO/Subcontract and credit approval
- Project completion time is dependent on factory build and ship schedule, to be determined.
- Trane will not perform any work if working conditions could endanger or put at risk the safety of our employees or subcontractors
- Asbestos or hazardous material abatement removal shall be performed by customer
- This Unit is variable heat recovery and is intended to keep the environment as such to provide long life of the facility. Without the cooling option, the unit is not intended for human comfort on 100% of all days.
- Trane is using the existing roof support, no engineering or added structural support included.





- Our intent is to reuse the existing gas piping for the duct heater, no costs are included for upgrades to the gas pipe system.

ACCEPTANCE

This proposal is subject to Customer's acceptance of the attached Trane Terms and Conditions - Installation.

We look forward to partnering with the City of Ada and the Dekko Community Center for all your HVAC installations and service needs. I will be contacting you soon to discuss the proposal and to schedule the next steps.

I appreciate the opportunity to earn your business, and look forward to helping you with all of your HVAC needs. Please contact me if you have any questions or concerns.

Sincerely,

Cameron Sigecan
Account Manager
Cell: (701) 936-4678
E-mail: Cameron.Sigecan@trane.com

WE VALUE THE CONFIDENCE YOU HAVE PLACED IN TRANE AND LOOK FORWARD TO PARTNERING WITH YOU.



Pricing and Acceptance

Larry Millender
 Director of Facilities
 City of Ada
 9 East Fifth Avenue
 Ada, MN 56510

Site Address:
 Dekko Community Center
 107 East 4th Avenue
 Ada, MN 56510

Options	Amount	Payment	Initial Approval
Replace PoolPak Unit	\$145,000.00	Net 30	

Invoice Schedule

- Mobilization Fee of 40% of Contract Price at time of signing
- Monthly Progress Billing

Financial Items Not Included

- Applicable sales tax is excluded
- Bid Bond, Payment, or Performance Bond
- Demurrage or Storage Charges
- Participation in OCIO or CCIP Insurance Programs

This Agreement is subject to Customer's acceptance of the attached Trane Terms and Conditions - Installation

CUSTOMER ACCEPTANCE	TRANE ACCEPTANCE
Dekko Community Center	Trane U.S. Inc. dba Trane
Authorized Representative Signature	Authorized Representative Signature
Printed Name:	Printed Name:
Title:	Title:
Acceptance Date:	Acceptance Date:
Purchase Order:	License Number: Trane





TERMS AND CONDITIONS – INSTALLATION

“Company” shall mean Trane U.S. Inc. dba Trane.

1. Acceptance; Agreement. These terms and conditions are an integral part of Company's offer and form the basis of any agreement (the “Agreement”) resulting from Company's proposal (the “Proposal”) for the goods and/or services described (the “Work”). **COMPANY'S TERMS AND CONDITIONS ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.** The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent (“Customer”) delivered to Company within 30 days from the date of the Proposal. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer's order shall be deemed acceptance of the Proposal subject to Company's terms and conditions. If Customer's order is expressly conditioned upon Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company's terms and conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counter-offer to provide Work in accordance with the Proposal and the Company terms and conditions. If Customer does not reject or object in writing to Company within 10 days, Company's counter-offer will be deemed accepted. Customer's acceptance of the Work by Company will in any event constitute an acceptance by Customer of Company's terms and conditions. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer's obligation to pay for Work rendered by Company to the date of cancellation.

2. Pricing and Taxes. Unless otherwise noted, the price in the Proposal includes standard ground transportation and, if required by law, all sales, consumer, use and similar taxes legally enacted as of the date hereof for equipment and material installed by Company. Tax exemption is contingent upon Customer furnishing appropriate certificates evidencing Customer's tax exempt status. Company shall charge Customer additional costs for bonds agreed to be provided. Equipment sold on an uninstalled basis and any taxable labor/labour do not include sales tax and taxes will be added. Following acceptance without addition of any other terms and condition of sale or any other modification by Customer, the prices stated are firm provided that notification of release for immediate production and shipment is received at the factory not later than 3 months from order receipt. If such release is received later than 3 months from order receipt date, prices will be increased a straight 1% (not compounded) for each one-month period (or part thereof) beyond the 3 month firm price period up to the date of receipt of such release. If such release is not received within 6 months after date of order receipt, the prices are subject to renegotiation, or at Company's option, the order will be cancelled. Any delay in shipment caused by Customer's actions will subject prices to increase equal to the percentage increase in list prices during that period of delay and Company may charge Customer with incurred storage fees.

3. Exclusions from Work. Company's obligation is limited to the Work as defined and does not include any modifications to the Work site under the Americans With Disabilities Act or any other law or building code(s). In no event shall Company be required to perform work Company reasonably believes is outside of the defined Work without a written change order signed by Customer and Company.

4. Performance. Company shall perform the Work in accordance with industry standards generally applicable in the area under similar circumstances as of the time Company performs the Work. Company may refuse to perform any Work where working conditions could endanger property or put at risk the safety of persons. Unless otherwise agreed to by Customer and Company, at Customer's expense and before the Work begins, Customer will provide any necessary access platforms, catwalks to safely perform the Work in compliance with OSHA or state industrial safety regulations.

5. Payment. Customer shall pay Company's invoices within **Net 30** days of invoice date. Company may invoice Customer for all equipment or material furnished, whether delivered to the installation site or to an off-site storage facility and for all Work performed on-site or off-site. No retention shall be withheld from any payments except as expressly agreed in writing by Company, in which case retention shall be reduced per the contract documents and released no later than the date of substantial completion. Under no circumstances shall any retention be withheld for the equipment portion of the order. If payment is not received as required, Company may suspend performance and the time for completion shall be extended for a reasonable period of time not less than the period of suspension. Customer shall be liable to Company for all reasonable shutdown, standby and start-up costs as a result of the suspension. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due and otherwise enforcing these terms and conditions. If requested, Company will provide appropriate lien waivers upon receipt of payment. Customer agrees that, unless Customer makes payment in advance, Company will have a purchase money security interest in all equipment from Company to secure payment in full of all amounts due Company and its order for the equipment, together with these terms and conditions, form a security agreement. Customer shall keep the equipment free of all taxes and encumbrances, shall not remove the equipment from its original installation point and shall not assign or transfer any interest in the equipment until all payments due Company have been made.

6. Time for Completion. Except to the extent otherwise expressly agreed in writing signed by an authorized representative of Company, all dates provided by Company or its representatives for commencement, progress or completion are estimates only. While Company shall use commercially reasonable efforts to meet such estimated dates, Company shall not be responsible for any damages for its failure to do so.

7. Access. Company and its subcontractors shall be provided access to the Work site during regular business hours, or such other hours as may be requested by Company and acceptable to the Work site' owner or tenant for the performance of the Work, including sufficient areas for staging, mobilization, and storage. Company's access to correct any emergency condition shall not be restricted.

8. Completion. Notwithstanding any other term or condition herein, when Company informs Customer that the Work has been completed, Customer shall inspect the Work in the presence of Company's representative, and Customer shall either (a) accept the Work in its entirety in writing, or (b) accept the Work in part and specifically identify, in writing, any exception items. Customer agrees to re-inspect any and all excepted items as soon as Company informs Customer that all such excepted items have been completed. The initial acceptance inspection shall take place within ten (10) days from the date when Company informs Customer that the Work has been completed. Any



subsequent re-inspection of excepted items shall take place within five (5) days from the date when Company informs Customer that the excepted items have been completed. Customer's failure to cooperate and complete any of said inspections within the required time limits shall constitute complete acceptance of the Work as of ten (10) days from date when Company informs Customer that the Work, or the excepted items, if applicable, has/have been completed.

9. Permits and Governmental Fees. Company shall secure (with Customer's assistance) and pay for building and other permits and governmental fees, licenses, and inspections necessary for proper performance and completion of the Work which are legally required when bids from Company's subcontractors are received, negotiations thereon concluded, or the effective date of a relevant Change Order, whichever is later. Customer is responsible for necessary approvals, easements, assessments and charges for construction, use or occupancy of permanent structures or for permanent changes to existing facilities. If the cost of such permits, fees, licenses and inspections are not included in the Proposal, Company will invoice Customer for such costs.

10. Utilities During Construction. Customer shall provide without charge to Company all water, heat, and utilities required for performance of the Work.

11. Concealed or Unknown Conditions. In the performance of the Work, if Company encounters conditions at the Work site that are (i) subsurface or otherwise concealed physical conditions that differ materially from those indicated on drawings expressly incorporated herein or (ii) unknown physical conditions of an unusual nature that differ materially from those conditions ordinarily found to exist and generally recognized as inherent in construction activities of the type and character as the Work, Company shall notify Customer of such conditions promptly, prior to significantly disturbing same. If such conditions differ materially and cause an increase in Company's cost of, or time required for, performance of any part of the Work, Company shall be entitled to, and Customer shall consent by Change Order to, an equitable adjustment in the Contract Price, contract time, or both.

12. Pre-Existing Conditions. Company is not liable for any claims, damages, losses, or expenses, arising from or related to conditions that existed in, on, or upon the Work site before the Commencement Date of this Agreement ("Pre-Existing Conditions"), including, without limitation, damages, losses, or expenses involving Pre-Existing Conditions of building envelope issues, mechanical issues, plumbing issues, and/or indoor air quality issues involving mold/mould and/or fungi. Company also is not liable for any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Company.

13. Asbestos and Hazardous Materials. Company's Work and other services in connection with this Agreement expressly excludes any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos, polychlorinated biphenyl ("PCB"), or other hazardous materials (hereinafter, collectively, "Hazardous Materials"). Customer warrants and represents that, except as set forth in a writing signed by Company, there are no Hazardous Materials on the Work site that will in any way affect Company's Work and Customer has disclosed to Company the existence and location of any Hazardous Materials in all areas within which Company will be performing the Work. Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and shall notify Customer. Customer will be exclusively responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for and, to the fullest extent permitted by law, shall indemnify and hold harmless Company (including its employees, agents and subcontractors) from and against any loss, claim, liability, fees, penalties, injury (including death) or liability of any nature, and the payment thereof arising out of or relating to any Hazardous Materials on or about the Work site, not brought onto the Work site by Company. Company shall be required to resume performance of the Work in the affected area only in the absence of Hazardous Materials or when the affected area has been rendered harmless. In no event shall Company be obligated to transport or handle Hazardous Materials, provide any notices to any governmental agency, or examine the Work site for the presence of Hazardous Materials.

14. Force Majeure. Company's duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon 10 days notice to Customer, in which event Customer shall pay Company for all parts of the Work furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor/labour disputes; labor/labour or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company; and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

15. Customer's Breach. Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement or suspend performance by delivery of written notice declaring termination, upon which event Customer shall be liable to Company for all Work furnished to date and all damages sustained by Company (including lost profit and overhead): (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement.

16. Indemnity. To the fullest extent permitted by law, Company and Customer shall indemnify, defend and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or tangible personal property, to the extent caused by the negligence or misconduct of their respective employees or other authorized agents in connection with their activities within the scope of this Agreement. Neither party shall indemnify the other against claims, damages, expenses or liabilities to the extent attributable to the acts or omissions of the other party. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify will continue in full force and effect, notwithstanding the expiration or early termination hereof, with respect to any claims based on facts or conditions that occurred prior to expiration or termination.

17. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT CONSEQUENTIAL, OR PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING WITHOUT



LIMITATION BUSINESS INTERRUPTION, LOST DATA, LOST REVENUE, LOST PROFITS, LOST DOLLAR SAVINGS, OR LOST ENERGY USE SAVINGS, EVEN IF A PARTY HAS BEEN ADVISED OF SUCH POSSIBLE DAMAGES OR IF SAME WERE REASONABLY FORESEEABLE AND REGARDLESS OF WHETHER THE CAUSE OF ACTION IS FRAMED IN CONTRACT, NEGLIGENCE, ANY OTHER TORT, WARRANTY, STRICT LIABILITY, OR PRODUCT LIABILITY). In no event will Company's liability in connection with the provision of products or services or otherwise under this Agreement exceed the entire amount paid to Company by Customer under this Agreement.

18. Patent Indemnity. Company shall protect and indemnify Customer from and against all claims, damages, judgments and loss arising from infringement or alleged infringement of any United States patent by any of the goods manufactured by Company and delivered hereunder, provided that in the event of suit or threat of suit for patent infringement, Company shall promptly be notified and given full opportunity to negotiate a settlement. Company does not warrant against infringement by reason of Customer's design of the articles or the use thereof in combination with other materials or in the operation of any process. In the event of litigation, Customer agrees to reasonably cooperate with Company. In connection with any proceeding under the provisions of this Section, all parties concerned shall be entitled to be represented by counsel at their own expense.

19. Limited Warranty. Company warrants for a period of 12 months from the date of substantial completion ("Warranty Period") equipment manufactured by Company against failure due to defects in material and manufacture and that the labor/labour furnished is warranted to have been properly performed (the "Limited Warranty"). **Product manufactured by Company that includes required startup and is sold in North America will not be warranted by Company unless Company performs the product start-up.** Substantial completion shall be the earlier of the date that the Work is sufficiently complete so that the Work can be utilized for its intended use or the date that Customer receives beneficial use of the Work. If such defect is discovered within the Warranty Period, Company will correct the defect or furnish replacement equipment (or, at its option, parts therefor) and, if said equipment was installed pursuant hereto, labor/labour associated with the replacement of parts or equipment not conforming to this Limited Warranty. Defects must be reported to Company within the Warranty Period. Exclusions from this Limited Warranty include damage or failure arising from: wear and tear; corrosion, erosion, deterioration; Customer's failure to follow the Company-provided maintenance plan; refrigerant not supplied by Trane; and modifications made by others to Company's equipment. Company shall not be obligated to pay for the cost of lost refrigerant. Notwithstanding the foregoing, all warranties provided herein terminate upon termination or cancellation of this Agreement. No warranty liability whatsoever shall attach to Company until the Work has been paid for in full and then said liability shall be limited to the lesser of Company's cost to correct the defective Work and/or the purchase price of the equipment shown to be defective. Equipment, material and/or parts that are not manufactured by Company are not warranted by Company and have such warranties as may be extended by the respective manufacturer. Trane equipment sold on an uninstalled basis is warranted in accordance with Company's standard warranty for supplied equipment. **THE WARRANTY AND LIABILITY SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, WHETHER IN CONTRACT OR IN NEGLIGENCE, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE. COMPANY MAKES NO REPRESENTATION OR WARRANTY EXPRESS OR IMPLIED REGARDING PREVENTION BY THE WORK, OR ANY COMPONENT THEREOF, OF MOLD/MOULD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR ANY OTHER CONTAMINATES. COMPANY SPECIFICALLY DISCLAIMS ANY LIABILITY IF THE WORK OR ANY COMPONENT THEREOF IS USED TO PREVENT OR INHIBIT THE GROWTH OF SUCH MATERIALS.**

20. Insurance. Company agrees to maintain the following insurance while the Work is being performed with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

Commercial General Liability	\$2,000,000 per occurrence
Automobile Liability	\$2,000,000 CSL
Workers Compensation	Statutory Limits

If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company waive its right of subrogation.

21. Commencement of Statutory Limitation Period. Except as to warranty claims, as may be applicable, any applicable statutes of limitation for acts or failures to act shall commence to run, and any alleged cause of action stemming therefrom shall be deemed to have accrued, in any and all events not later than the last date that Company or its subcontractors physically performed work on the project site.

22. General. Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state or province in which the Work is performed, without regard to choice of law principles which might otherwise call for the application of a different state's law. Any dispute arising under or relating to this Agreement that is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Work is performed. Any action or suit arising out of or related to this Agreement must be commenced within one year after the cause of action has accrued. To the extent the Work site is owned and/or operated by any agency of the Federal Government, determination of any substantive issue of law shall be according to the Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the subject matter hereof. This Agreement may not be amended, modified or terminated except by a writing signed by the parties hereto. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of the Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Customer's permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original.

23. Equal Employment Opportunity/Affirmative Action Clause. Company is a federal contractor that complies fully with Executive Order 11246, as amended, and the applicable regulations contained in 41 C.F.R. Parts 60-1 through 60-60, 29 U.S.C. Section 793 and the



applicable regulations contained in 41 C.F.R. Part 60-741; and 38 U.S.C. Section 4212 and the applicable regulations contained in 41 C.F.R. Part 60-250 in the United States and with Canadian Charter of Rights and Freedoms Schedule B to the Canada Act 1982 (U.K.) 1982, c. 11 and applicable Provincial Human Rights Codes and employment law in Canada.

24. U.S. Government Work.

The following provision applies only to direct sales by Company to the US Government. The Parties acknowledge that all items or services ordered and delivered under this Agreement are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1). Company complies with 52.219-8 or 52.219-9 in its service and installation contracting business.

The following provision applies only to indirect sales by Company to the US Government. As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions: 52.219-8; 52.222-26; 52.222-35; 52.222-36; 52.222-39; 52.247-64. If the Work is in connection with a U.S. Government contract, Customer certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the work that is the subject of the Proposal or this Agreement, other than the Proposal or this Agreement.

NOTICE: Company is restricted from receiving funds appropriated or otherwise made available under U.S Public Laws 110-161, 111-8, and 111-117.

25. Limited Waiver of Sovereign Immunity. If Customer is an Indian tribe (in the U.S.) or a First Nation or Band Council (in Canada), Customer, whether acting in its capacity as a government, governmental entity, a duly organized corporate entity or otherwise, for itself and for its agents, successors, and assigns: (1) hereby provides this limited waiver of its sovereign immunity as to any damages, claims, lawsuit, or cause of action (herein "Action") brought against Customer by Company and arising or alleged to arise out of the furnishing by Company of any product or service under this Agreement, whether such Action is based in contract, tort, strict liability, civil liability or any other legal theory; (2) agrees that jurisdiction and venue for any such Action shall be proper and valid (a) if Customer is in the U.S., in any state or United States court located in the state in which Company is performing this Agreement or (b) if Customer is in Canada, in the superior court of the province or territory in which the work was performed; (3) expressly consents to such Action, and waives any objection to jurisdiction or venue; (4) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this Agreement; and (5) expressly acknowledges and agrees that Company is not subject to the jurisdiction of Customer's tribal court or any similar tribal forum, that Customer will not bring any action against Company in tribal court, and that Customer will not avail itself of any ruling or direction of the tribal court permitting or directing it to suspend its payment or other obligations under this Agreement. The individual signing on behalf of Customer warrants and represents that such individual is duly authorized to provide this waiver and enter into this Agreement and that this Agreement constitutes the valid and legally binding obligation of Customer, enforceable in accordance with its terms.

1-26.251-10(1013)
Supersedes 1-26.251-10(1012)



APPENDIX A

Bid Specifications

The City of Ada, Minnesota invites you to bid on replacing the existing PoolPak for the Dekko Center. The City requires a unit that will dehumidify the indoor pool area and consequently the entire facility. The proposal must include a full scope of work to include removal of the existing unit, installation of new pool dehumidification kit, electrical, controls, labor, shipping expenses, etc. and must be turnkey ready. Sealed bids are due by close of business on April 30, 2015 to:

James Leiman
City of Ada
15 East 4th Avenue
Ada, MN

Bids will be sealed and opened at the scheduled May City Council meeting on May 5, 2015 at 6:00 p.m. in the presence of the Mayor, City Council and public. Selection will be tentatively based on lowest price however official selection will take place once quality and timeliness of performance are researched and the technical proposal is considered to ensure the facility's dehumidification requirements are met. The project must be complete by July 31, 2015. All bids must include a copy of license and bonding.

The point of contact regarding facility specifics is Larry Millender, Dekko Center Director, and can be reached at 218.784.7655 or dekkocenter@adamn.gov.

James Leiman
City Administrator, Clerk and Treasurer
Ada, Minnesota
O- 218.784.5522
C- 253.224.3933
jleiman@adamn.gov



Business Plan For Ada Liquor Store



James Leiman
City Administrator
Ada, MN
May 2015



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Executive Summary

The Ada Liquor Store has served the City of Ada for over 70 years. The facility offers off-sale liquor, beer and wine coupled with full bar and quick meals, usually cooked by an auto-fryer. Historically, the combined on and off sale operation has led to small profit margins that assist in financing city operations using Enterprise Funds. The intent of this document is to achieve higher profit margins through business operations modifications driven by an analysis of sales data and regional bar trends.

The store aims to improve its brand through coordinated marketing and operational execution that ensures quality and consistency of Ada Liquor's existing concept. These efforts include marketing programs to enhance off-sales through advertising to support a broader shop local campaign led by the Chamber of Commerce. The concept is further strengthened by an emphasis on contributing to local employment and increasing enterprise revenues to support public projects in Ada.

The business goal is to continue to grow and develop the Ada Liquor Store. After 70 years of operations, the facility was examined for profitability and improvements. To maximize efficiencies and effectiveness, the City of Ada will execute the following:

- Improve profit margins through adjusting to and maintaining market rates for on-sale operations;
- Focus on operational effectiveness and efficiencies and achieving excellence for both on and off sale operations through adjusted facility hours and curtailing expenses;
- Increase off-sales through enhanced marketing;
- Achieve a sustainable business model.



Introduction

The Ada Liquor Store has been in existence for over 70 years and has provided a unique service to the citizens of the City through both on and off alcohol sales. Recent discussions and debate have revealed that the community enjoys this service and is willing to support the facility in order to shop local, maintain jobs and fund city programs. The liquor store enjoys a loyal on and off sale following resulting in the ability for management to make minor changes yet still achieve better profit margins. As a result, this document will serve as a prescription to successfully improving business operations using 12 months of data pulled directly from the Point-of-Sale system, marketing ideas and pricing analysis. Profit margins will be increased by improving marketing efforts for the off-sale operation and making pricing and operational adjustments for the on-sale side of the house.

Management and Organization

At present, Gerrie Aasland manages the Ada Liquor Store and is supported by seven part-time personnel totaling eight employees. Employees of the facility are compensated commensurate with their job description and receive pay rates for labor within a state mandated range. In addition, several employees enjoy PERA contributions of 7.5% beyond their pay. The manager is the only employee to work full-time and receive benefits such as healthcare. In the event there is a departure or retirement of an employee, there is not expected to be any shortage of qualified and available staff and management from local labor pools in the market area.

As far as managerial responsibilities are concerned, general duties will continue to oversee the daily operations of the facility, manage inventory and ordering of alcohol, food, equipment, and supplies and arrange for the routine maintenance and upkeep of the bar and its equipment. The manager is expected to work with area distributors in order to



improve off-sale performance; in addition, there is an expectation to target new or former customers of the off-sale operation using a more effective marketing approach.



Operations

The manager will maintain existing alcohol distributors so as long as they provide the best possible pricing. It is incumbent upon the manager to research prices quarterly and continuously ask for better pricing models. In addition, the manager will frequently attempt to renegotiate distributor rates; this can be accomplished by hopefully improving the volume of sales and qualifying for better pricing.

Inventory management and order taking/ processing will all be done on touch screen monitors placed throughout the off sale and bar area. If necessary, the software can be altered to businesses needs. The software includes a point of sale menu, inventory control analysis, credit card sales, bar and quick serve menu, office management, and much more. In addition, internal controls to validate point of sale data will be required point forward. All inventories in the on sale location will be entered into an Excel spreadsheet by the manager. On a quarterly basis, the City Administrator will audit both



the inventory management system and Excel spreadsheets to ensure the accuracy of inputs.

At this point, there will be no upgrades to either the on or off sale facility. An analysis of inventory however is essential to determine if supply is meeting the demand of customers in Ada and potentially surrounding communities. This analysis will be conducted during the city's update to the Comprehensive Plan to ensure that no opportunity for increased sales is missed.

When benchmarking, the Ada Liquor Store will compare its business to Illegal Off Sale (caveat, there are major differences between entities such as labor costs, refrigeration and higher volume purchases so it will not be a one for one) in Halstad and also state data from the State Auditor's Office using regional municipal operations. For on-sale, the facility will benchmark itself against the private stores operating in the area in addition to annual state reports.

Competitive Analysis

The Ada Liquor Store has a number of strengths and weaknesses to consider; it enjoys many advantages as compared to local and privately owned businesses yet suffers from several disadvantages when examined. As such, it is important to document the strengths and weaknesses so that the organization can continue to leverage strengths while improve upon its weaknesses to make it more competitive and profitable.

Strengths

- Has name recognition; bar has been in existence for over 70 years
- Has a loyal customer base for on sale operations
- Offers a number of attractive marketing activities to increase sales within the on sale operation, e.g. popular bingo and meat raffles



- Alcohol sales tend to be inelastic within the on sale thereby predicting demand and sales

Weaknesses

- Off sale prices are not competitive when compared to private, regional off sale entities
- Pricing and business model are antiquated and have not responded to supply and overhead price increases thereby reducing potential profits
- Internal controls lack
- Marketing is not very effective

Opportunities

- Improve marketing strategy and reclaim Ada residents who purchase alcohol from Fargo or Halstad
- Work with distributors to improve pricing and marketing strategy for off sale operations
- Modify business operations to increase efficiencies and reduce overhead costs
- Restructure pricing model for on sale products to increase profitability
- Implement internal controls to more accurately control inventory

Threats

- Not raising prices commensurate with overhead and inventory increases
- Ineffective implementation of internal controls and new business plan
- People traveling to Fargo, and Halstad to purchase off sale products



Marketing

The Ada Liquor Store has struggled to effectively advertise its off sale operations. At present, the business nets roughly 3% per year in profit while the state average is easily double even when combined on/ off sale operations are calculated. Therefore, it is essential to improve marketing of off sale operations and focus on areas which can be impacted with relative ease. There is a fairly large client base in Norman County that could be leveraged to include Ada residents who purchase their liquor in neighboring communities when shopping for other goods and services. Advertising dollars will immediately shift away from on sale and focus exclusively on off sale. A creative and deliberate shop local campaign will begin in concert with what the distributors recommend to improve sales. Below are a number of tools that will be used to market off sale more effectively:

Promotional Tools

- Advertising
 - Focus almost exclusively on retaining and recapturing customers that live in or close to Ada.
 - Work with MMBA and distributor community to develop creative advertising campaign
 - Develop specials that target demographic where we have lost business
- Local Store Marketing / Public Relations
 - Improve image within the City of Ada- work to make facility more inviting
 - Focus on customer service and knowledge sharing with the community in areas such as wine pairing
- Local Media
 - Work closely with media outlets to improve off sale results



- Develop marketing strategy to recapture lost revenues
- Specials and Volume Discounts
 - Develop a viable promotional cycle that increases traffic and consequently sales
 - Work with distributors to identify specials and attempt joint purchases that will enable better pricing for customers for popular items

Assumptions and Methodology

To develop this plan, research methods included both qualitative and quantitative data. Qualitatively, discussions were had with local liquor establishments to include surrounding communities; in addition, information was collected from open source material relating to private sector liquor operations. With respect to quantitative data, assumptions concerning curtailing overhead expenses were made using 365 days' worth of data from the Restaurant Manager Point of Sale system located in the Ada Liquor Store. By reviewing the data, assumptions were made based on labor unit and overhead expenses based on actual sales.

Concerning pricing, local establishments were reviewed along with a few liquor stores and bars in surrounding towns. Initially, it appeared as though there wasn't much difference in price but when more closely examined, it became evident that there were indeed differences, especially on the on-sale due to differences in ingredients, e.g. larger pours in some facilities vice others. In addition, costs have risen over the last several years further requiring adjustments.



Path Forward

Adjusting prices for on and off sale

Effective June 1, 2015, there will be a \$.50 increase on most on-sale beverages. This should result in \$7,000 of increased revenue over a 12-month period. This price adjustment will reflect recent increases in supplies/ labor costs and also bring prices more in line with regional bars. It also accounts for a 5% reduction in sales in the event customers no longer consume alcohol at the municipal on-sale due to the increase. Concerning off-sale, there will be no adjustments in price at this time however in order to increase sales in by 2.5% in 2016, management will continue to work with professional marketing organizations to identify areas of improvement to include recapturing lost customers. If successful, the Ada Liquor Store should enjoy increased revenue by about \$10,000 in 2016 with 1.5-2.5% targets for years thereafter; this is goal in real terms, not nominal to ensure that inflation does not obscure metrics that determine strategy effectiveness.

Adjusted facility hours and curtailing expenses

Several steps will be taken to reduce overhead expenses. Low hanging fruit includes examining insurance policies, e.g. Dram Shop insurance, to determine if there are better priced policies available. In addition, based on an analysis of store hours, it became clear that an adjustment to reflect new hours of Monday-Thursday from 11-11 and Friday/ Saturday from 11-12 would be necessary to reduce overhead. Other expenses will be reviewed for cost effectiveness and also to determine if there are better priced options available. Another \$7,000 should be captured from these expense reductions.

Increase off-sales through enhanced marketing

To meet new off-sale targets, the management team will develop a more effective approach to recapturing business. This will be accomplished through a shop local



campaign and creating a pricing schedule to include volume discounts for large purchases in order to more effectively compete with private sector off-sale entities in neighboring communities. In addition, there will be packages developed for special events, e.g. weddings.

Achieve a sustainable business model

Although only a few changes will be introduced in 2015, the adjustments will be measured to determine effectiveness; the new numbers will then be analyzed for additional improvements and consequently controlled through new processes. The intent is to develop a sustainable business model so that the Ada Liquor Store achieves an eventual 8-10% profit margin every year.

Internal Controls

At present, there are a number of internal controls in place to include a check and balance system involving cash receipts, the POS device, the bank and City Hall. To further refine the process, the Administrator and the Liquor Store Manager will go through inventory and compare against sales to insure maximum accountability and reduced spillage; this will be based on the new inventory documentation requirement that will be examined quarterly. In addition, the Liquor Store is annually audited by a third party firm to ensure that margins are commensurate with state averages. Additional internal controls will be introduced as opportunities and technology improvements reveal themselves and through consistent measurements, analysis,

Summary

In conclusion, there are a number of minor adjustments that will be made in order to improve operational efficiency and increase revenue. Although this will require culture changes that embrace private sector methods to enhance the bottom line, in time, these adjustments will become the standard. The City of Ada has the potential to add to the bottom line and improve its financial position by embracing and implementing these changes while reviewing every year for effectiveness and success.



ORDINANCE NO. 460

AN ORDINANCE REGULATING PUBLIC NUISANCES WITHIN THE CITY OF ADA, MINNESOTA

THE CITY COUNCIL OF THE CITY OF ADA, MINNESOTA DOES HEREBY ORDAIN:

SECTION ONE. PUBLIC NUISANCE PROHIBITION.

A person must not act, or fail to act, in a manner that is or causes a public nuisance. For purpose of this ordinance, a person that does any of the following is guilty of maintaining a public nuisance:

(A) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public; or

(B) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or

(C) Does any other act or omission declared by law or this ordinance to be a public nuisance.

SECTION TWO. PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

(A) The exposed accumulation of decayed or unwholesome food or vegetable matter;

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

(D) Carcasses of animals not buried or destroyed within twenty-four (24) hours after death;

(E) Accumulation of manure, refuse, or other debris;

(F) Privy vaults and garbage cans which are not rodent-free or fly-tight, or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

(G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;

(H) All noxious weeds and other rank growths of vegetation upon public or private property;

(I) Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities;

(J) All public exposure of people having a contagious disease; and

(K) Any offensive trade or business as defined by statute not operating under local license.

SECTION THREE. PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

(A) All snow and ice that is not removed from public sidewalks within forty-eight (48) hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(C) All wires and limbs of trees that are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

(D) Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet, or repose of another person;

(E) All unnecessary and annoying vibrations;

(F) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds, except under conditions as are permitted by this ordinance or other applicable law;

(G) Radio aerials or television antennae erected or maintained in a dangerous manner;

(H) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk that causes large crowds or people to gather, obstructing traffic and the free use of the street or sidewalk;

(I) All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated as to endanger public safety, or not constructed and maintained as provided by ordinance;

(J) The allowing of rainwater, ice, or snow to fall from any building or structure upon any street or sidewalk or to follow across any sidewalk;

(K) Any barbed wire fence located less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way;

(L) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

(M) Wastewater cast upon or permitted to flow upon streets or other public properties;

(N) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other materials in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or other safety hazards from such accumulation;

(O) Any well, hole, or similar excavation that is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;

(P) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;

(Q) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substances that may injure any person or animal or damage any pneumatic tire when passing over such substance;

(R) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

(S) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one (1) footcandle when abutting any commercial or industrial parcel; and

(T) All other conditions or things that are likely to cause injury to the person or property of another.

SECTION FOUR. NUISANCE PARKING AND STORAGE.

(A) **Declaration of nuisance.** The outside parking and storage on residentially zoned property of large numbers of vehicles and vehicles, materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it: (1) obstructs views on streets and private property, (2) creates cluttered and otherwise unsightly areas, (3) prevents the full use of residential streets for residential parking, (4) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (5) decreases adjoining landowners' and occupants' use and enjoyment of their property and neighborhood, and (6) otherwise adversely affects property values and neighborhood patterns.

(B) Unlawful parking and storage.

(1) A person must not place, store, or allow the placement or storage of ice fishing houses, skateboard ramps, playhouses, or other similar non-permanent structures outside continuously for longer than twenty-four (24) hours in the front yard area of residential property unless more than one hundred (100) feet back from the front property line.

(2) A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in conjunction with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.

(3) A person must not cause, undertake, permit, or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:

(a) No more than four (4) vehicles or vehicle trailers per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. The maximum number does not include vehicles of occasional guests who do not reside on the property.

(b) Vehicles that are parked or stored outside in the front yard areas must be on a paved or graveled parking surface or driveway area; there will be no parking on the grass.

(c) Vehicles, watercraft, and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away from school for periods of time but still claim the property as their legal residence will be considered residents on the property.

SECTION FIVE. INOPERABLE MOTOR VEHICLES.

(A) **Declaration of nuisance.** Any motor vehicle described in this section shall constitute a hazard to the health and welfare of the residents of the community as such vehicles can harbor noxious diseases, furnish a shelter and breeding ground for vermin, and present physical danger to the safety and well-being of children and citizens. Motor vehicles also contain various fluids which, if released into the environment, can and do cause significant health risks to the community.

(B) **Inoperable motor vehicles.** It shall be unlawful to keep, park, store, or abandon any motor vehicle that is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation within the state, pursuant to Minn. Stat. § 168B.011, subd. 3, as it may be amended from time to time.

(C) **Screening.** This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road, or alley, and which does not foster complaint from a resident of the city. Privacy fencing is permissible.

SECTION SIX. DUTIES OF CITY OFFICERS.

City officials may apply and enforce any provision of this ordinance relating to public nuisances within this jurisdiction. Any peace officer or other designated city official shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no peace officer or designated city official will enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing entry.

SECTION SEVEN. ABATEMENT PROCEDURE.

(A) **Procedure.** Whenever the peace officer or other designated official determines that a public nuisance is being maintained or exists on the premises in the city, the official shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the official shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

(B) **Notice.** Written notice of the violation; notice of the time, date, place, and subject of any hearing before the City Council; notice of the City Council order; and notice of motion for summary enforcement hearing shall be served by a peace officer or designated official on the owner of record or occupant of the premises either in person or by certified or registered mail. If

the premise is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by posting it on the premises.

(C) **Emergency procedure; summary enforcement.** In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in subdivisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the peace officer or other designated official shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement will unreasonably endanger public health, safety, or welfare. The officer or designated official shall notify in writing the occupant or owner of the premises of the nature of the nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision (A) of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) **Immediate abatement.** Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

(E) **Unlawful parties or gatherings.** When law enforcement determines that a gathering is creating such a noise disturbance as prohibited under Section Four, Subdivision D, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disburse immediately. No person shall refuse to leave after being ordered to do so by law enforcement. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

(F) **Judicial remedy.** Nothing in this section shall prevent the city from seeking a judicial remedy when no other adequate administrative remedy exists.

SECTION EIGHT. RECOVERY OF COST.

(A) **Personal liability.** The owner of the premises on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city clerk or other city official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.

(B) **Assessment.** After notice and hearing as provided in Minn. Stat. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the city clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that

statute and any other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the City Council may determine in each case.

SECTION NINE. PENALTY.

Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

SECTION TEN. SEVERABILITY.

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

SECTION ELEVEN. EFFECTIVE DATE.

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat., § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time. This ordinance supersedes any previous ordinances pertaining to nuisance.

I CERTIFY THAT the above ordinance was passed and adopted by the City Council of the City of Ada at a scheduled monthly meeting of the City Council on July 7, 2015.

The motion for the adoption of the foregoing resolution was made by member ____ and duly seconded by member ____ and upon a vote being taken hereon, the following voted in favor thereof:, and the following voted against the same: and the following members were absent:.

SIGNED:

WITNESSED:

Attest:

Jim Ellefson
Mayor

James Leiman
City Administrator, Clerk-Treasurer

As signed this 7th day of July, 2015

CITY OF ADA
Ordinance NO. 461

TREE ORDINANCE

The City Council of Ada, Minnesota does hereby ordain a Tree Ordinance.

Section 1. Definitions

Street trees: "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

Park Trees: "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

Section 2. Creation and Establishment of a City Tree Beautification Subcommittee

There is hereby created and established a City Tree Beautification Subcommittee (within the Beautification Committee) for the City of Ada, MN which shall consist of five members, citizens and residents of this city, who shall be appointed by the mayor with the approval of the city council.

Section 3. Term of Office

The term of the five persons to be appointed by the mayor shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

Section 4. Compensation

Members of the board shall serve without compensation.

Section 5, Duties and Responsibilities

It shall be the responsibility of the subcommittee to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the city council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of Ada, MN.

The subcommittee, when requested by the city council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

Section 6. Operation

The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

Section 7. Street Tree Species to be Planted

The following list constitutes the official Street Tree species for Ada, MN

Small Trees: Flowering Crabapple, Tree Lilac, Princess Kay Plum, Mountain Ash, Willow

Medium Trees: Paper Birch, Ohio Buckeye, Linden

Large Trees: Canada Red Cherry, Northern Acclaim Honeylocust, Linden, Elm

No species other than those included in this list may be planted as Street Trees without written permission of the City Tree Subcommittee.

Section 8. Spacing

The spacing of Street Trees will be in accordance with the three species size classes listed in Section 7 of this ordinance, and no trees may be planted closer together than the following: Small Trees 20-30 feet and 30-40 feet for medium to large trees.

Section 9. Distance from Curb and Sidewalk

The distance trees may be planted from curbs or curblines shall be 8' and will be in accordance with the three species size classes listed in Section 7 of this ordinance. No trees may be planted closer to any sidewalk than the following: Small Trees to Medium Trees, 3 feet; and Large Trees, 4 feet.

Section 10. Distance from Street Corners and Fireplugs

No Street Tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No Street Tree shall be planted closer than 10 feet of any fireplug.

Section 11. Utilities

No Street Trees other than those species listed as Small Trees in Section 7 of this ordinance may be planted under or within 15 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

Section 12. Public Tree Care

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The City Tree Subcommittee may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This Section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of said trees is in accordance with Sections 7 through 11 of this ordinance.

Section 13. Tree Topping

It shall be unlawful as a normal practice for any person, firm, or city department to top any Street Tree, Park Tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the City Tree Subcommittee.

Section 14. Pruning, Corner Clearance

Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of twelve feet (12') above the surface of the street or 8' above the sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with

visibility of any traffic control device or sign.

Section 15. Dead or Diseased Tree Removal on Private Property

The City shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The City Tree Subcommittee will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice.

Section 16. Removal of Stumps

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Section 17. Interference with City Tree Beautification Subcommittee

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Subcommittee, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees, or trees on private grounds, as authorized in this ordinance.

Section 18. Arborists License and Bond

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or en-
loving street or park trees within the City without first applying for and procuring a license. The license fee shall be \$25 annually in advance; provided, however, that no license shall be required of any public service company or City employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Section 19. Review by City Council

The city council shall have the right to review the conduct, acts and decisions of the City Tree Subcommittee. Any person may appeal from any ruling or order of the City Tree Subcommittee to the city council who may hear the matter and make final decision.

Section 20. Penalty

Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$500

Section 21. Supersession

This ordinance supersedes any previous ordinances pertaining to tree and becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat., § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

I CERTIFY THAT the above ordinance was passed and adopted by the City Council of the City of Ada at a scheduled monthly meeting of the City Council on June 2, 2015 and consequently July 7, 2015.

The motion for the adoption of the foregoing resolution was made by member ____ and duly seconded by member ____ and upon a vote being taken hereon, the following voted in favor thereof:, and the following voted against the same:, and the following members were absent:.

SIGNED:

WITNESSED:

Jim Ellefson
Mayor

Attest: _____

James Leiman
City Administrator, Clerk-Treasurer

As signed this 7th day of July, 2015

City of Ada Floodplain Ordinance
Ordinance No. 462
(Two District Ordinance)

This ordinance would replace Chapter 38 of the City Code, and references Appendix A, Zoning

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August 2014

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ARTICLE 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

1.1 **Statutory Authorization:** The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Ada, Minnesota, does ordain as follows.

1.2 Purpose:

1.21 This ordinance regulates development in the flood hazard areas of Ada. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

1.22 National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

1.23 This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

ARTICLE 2.0 GENERAL PROVISIONS

2.1 **How to Use This Ordinance:** This ordinance adopts the floodplain maps applicable to Ada and includes two floodplain districts: Floodway and Flood Fringe, to which the standards in Articles 4 or 5, respectively, will apply, depending on the location of a property.

2.2 **Lands to Which Ordinance Applies:** This ordinance applies to all lands within the jurisdiction of Ada shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Floodway or Flood Fringe District.

2.21 The Floodway and Flood Fringe Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.

2.3 **Incorporation of Maps by Reference:** The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this ordinance. The attached material includes the Flood Insurance Study for Norman County, Minnesota, and Incorporated Areas, dated September 30, 2015 and the Flood Insurance Rate Maps for Norman County and Incorporated Areas with map numbers 27107C0241E, 27107C 0242E, and 27107C0261E, all of these documents dated September 30, 2015 and prepared by the Federal Emergency Management Agency. These materials are on file in the City Clerk's office.

2.4 **Regulatory Flood Protection Elevation:** The regulatory flood protection elevation (RFPE) is an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

- 2.5 **Interpretation:** The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.
- 2.51 Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.
- 2.52 Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the City Council and to submit technical evidence.
- 2.6 **Abrogation and Greater Restrictions:** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- 2.7 **Warning and Disclaimer of Liability:** This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Ada or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- 2.8 **Severability:** If any Article, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.
- 2.9 **Definitions:** Unless specifically defined below, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application.
- 2.911 Accessory Use or Structure – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- 2.912 Base Flood Elevation – The elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance survey.
- 2.913 Basement – any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
- 2.914 Conditional Use – a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:
- (a) Certain conditions as detailed in the zoning ordinance exist.
- (b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
- 2.915 Critical Facilities – facilities necessary to a community’s public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes,

fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

- 2.916 Development – any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- 2.917 Equal Degree of Encroachment – a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- 2.918 Farm Fence – A fence as defined by Minn. Statutes Article 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this ordinance.
- 2.919 Flood – a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
- 2.920 Flood Frequency – the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- 2.921 Flood Fringe – that portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Norman County, Minnesota.
- 2.922 Flood Prone Area – any land susceptible to being inundated by water from any source (see “Flood”).
- 2.923 Floodplain – the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- 2.924 Floodproofing – a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- 2.925 Floodway – the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.
- 2.926 Lowest Floor – the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor.
- 2.927 Manufactured Home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”
- 2.928 Obstruction – any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- 2.929 Principal Use or Structure – all uses or structures that are not accessory uses or structures.

- 2.930 One Hundred Year Floodplain – lands inundated by the “Regional Flood” (see definition).
- 2.931 Reach – a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- 2.932 Recreational Vehicle – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”
- 2.933 Regional Flood – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.
- 2.934 Regulatory Flood Protection Elevation (RFPE) - an elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
- 2.935 Repetitive Loss: Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.
- 2.936 Special Flood Hazard Area – a term used for flood insurance purposes synonymous with “One Hundred Year Floodplain.”
- 2.937 Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Article 9.31 of this ordinance and other similar items.
- 2.938 Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 2.939 Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
 - (b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.

2.10. **Annexations:** The Flood Insurance Rate Map panels adopted by reference into Article 2.3 above may include floodplain areas that lie outside of the corporate boundaries of Ada at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Ada after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation.

ARTICLE 3.0 ESTABLISHMENT OF ZONING DISTRICTS

3.1 Districts:

3.11 Floodway District. The Floodway District includes those areas designated as floodway on the Flood Insurance Rate Map adopted in Article 2.3.

3.12 Flood Fringe District. The Flood Fringe District includes those areas designated as floodway fringe on the Flood Insurance Rate Map adopted in Article 2.3, as being within Zone AE but being located outside of the floodway.

3.2 **Compliance:** Within the floodplain districts established in this ordinance, the use of any land, the use, size, type and location of structures on lots, the installation and maintenance of transportation, utility, water supply and waste treatment facilities, and the subdivision of land must comply with the terms of this ordinance and other applicable regulations. All uses not listed as permitted uses or conditional uses in Articles 4.0 and 5.0, respectively, are prohibited.

In addition, a caution is provided here that:

3.21 New and replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this ordinance and specifically Article 9.0.

3.22 Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this ordinance and specifically Article 11.0.

3.23 As-built elevations for elevated or floodproofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this ordinance and specifically as stated in Article 10.0 of this ordinance.

3.24 Critical facilities, as defined in Article 2.915, are prohibited in all floodplain districts.

ARTICLE 4.0 FLOODWAY DISTRICT (FW)

4.1 **Permitted Uses:** The following uses, subject to the standards set forth in Article 4.2, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

4.11 General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

4.12 Industrial-commercial loading areas and parking areas.

4.13 Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.

4.14 Residential lawns, gardens, parking areas, and play areas.

4.15 Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to

issuance of any permit, and that the standards in Articles 4.41, 4.43(a) and 4.46 of this ordinance are met.

4.2 Standards for Floodway Permitted Uses:

- 4.21 The use must have a low flood damage potential.
- 4.22 With the exception of the uses listed in Article 4.15, the use must not obstruct flood flows or increase flood elevations and must not involve structures, fill, obstructions, excavations or storage of materials or equipment.
- 4.23 Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

4.3 Conditional Uses: The following uses may be allowed as conditional uses following the standards and procedures set forth in Article 10.4 of this ordinance and further subject to the standards set forth in Article 4.4, if otherwise allowed in the underlying zoning district or any applicable overlay district.

- 4.31 Structures accessory to the uses listed in 4.1 above and the uses listed in 4.32 - 4.37 below.
- 4.32 Extraction and storage of sand, gravel, and other materials.
- 4.33 Marinas, boat rentals, docks, piers, wharves, and water control structures.
- 4.34 Storage yards for equipment, machinery, or materials.
- 4.35 Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined in Article 2.918, are permitted uses.
- 4.36 Travel-ready recreational vehicles meeting the exception standards in Article 9.3.
- 4.37 Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

4.4 Standards for Floodway Conditional Uses:

- 4.41 All Uses. A conditional use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.
- 4.42 Fill; Storage of Materials and Equipment:
 - (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - (b) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
 - (c) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the City Council has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.
- 4.43 Accessory Structures:
 - (a) Accessory structures must not be designed for human habitation.

- (b) Accessory structures, if permitted, must be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
 - (1) Whenever possible, structures must be constructed with the longitudinal axis parallel to the direction of flood flow; and
 - (2) So far as practicable, structures must be placed approximately on the same flood flow lines as those of adjoining structures.
 - (c) Accessory structures must be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building Code. All floodproofed accessory structures must meet the following additional standards:
 - (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; and
 - (2) Any mechanical and utility equipment in the structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.
 - (d) As an alternative, an accessory structure may be internally/wet floodproofed to the FP-3 or FP-4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. A detached garage may only be used for parking of vehicles and limited storage. All structures must meet the following standards:
 - (1) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (2) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- 4.44 Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Article 103G.245.
- 4.45 A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.
- 4.46 Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

ARTICLE 5.0 FLOOD FRINGE DISTRICT (FF)

5.1 **Permitted Uses:** Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Articles 5.2. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

5.2 Standards for Flood Fringe Permitted Uses:

5.21 All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation

for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.

(a) As an alternative to elevation on fill, an accessory structure that constitutes a minimal investment and that does not exceed 576 square feet in size may be internally floodproofed in accordance with Article 4.43.

5.22 The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Article 5.21 of this ordinance, or if allowed as a conditional use under Article 5.33 below.

5.23 The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.

5.24 The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

5.25 Fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

5.26 All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to the City Council.

5.27 Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

5.28 Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.

5.29 Flood fringe developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

5.30 Manufactured homes and recreational vehicles must meet the standards of Article 9 of this ordinance.

5.3 Conditional Uses: The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Article 10.4 of this ordinance. Conditional uses must meet the standards in Articles 5.24 through 5.30 and Article 5.4.

5.31 Any structure that is not elevated on fill or floodproofed in accordance with Article 5.21 of this ordinance.

5.32 Storage of any material or equipment below the regulatory flood protection elevation.

5.33 The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Article 5.21 of this ordinance.

5.4 Standards for Flood Fringe Conditional Uses:

5.41 The standards listed in Articles 5.24 through 5.30 apply to all conditional uses.

- 5.42 Basements, as defined by Article 2.913 of this ordinance, are subject to the following:
- (a) Residential basement construction is not allowed below the regulatory flood protection elevation.
 - (b) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with Article 5.44 of this ordinance.
- 5.43 All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures wet floodproofed to the FP-3 or FP-4 classification are not permitted.
- 5.44 The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
- (a) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
 - (b) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council.
 - (c) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- 5.45 Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.
- 5.46 RESERVED FOR OPTIONAL ALTERNATIVE ELEVATION METHODS (*available upon request if necessary*)

ARTICLE 6.0 RESERVED (*typically used for General Floodplain, not present in this area*)

ARTICLE 7.0 LAND DEVELOPMENT STANDARDS

- 7.1 **In General:** Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the City of Ada.
- 7.2 **Subdivisions:** No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.
- 7.21 All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
- 7.22 All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City Council. The plan must be prepared by a

registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

7.23 For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

7.24 If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:

- (a) All such proposals are consistent with the need to minimize flood damage within the flood prone area,
- (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
- (c) Adequate drainage is provided to reduce exposure of flood hazard.

7.3 **Building Sites:** If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

- (a) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (b) Constructed with materials and utility equipment resistant to flood damage;
- (c) Constructed by methods and practices that minimize flood damage; and
- (d) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

ARTICLE 8.0 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

8.1 **Public Utilities:** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.

8.2 **Public Transportation Facilities:** Railroad tracks, roads, and bridges to be located within the floodplain must comply with Articles 4.0 and 5.0 of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

8.3 **On-site Water Supply and Sewage Treatment Systems:** Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they must not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems is considered to be in compliance with this Section.

ARTICLE 9.0 MANUFACTURED HOMES, MANUFACTURED HOME PARKS, AND RECREATIONAL VEHICLES.

9.1 Manufactured Homes: New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

9.11 Placement or replacement of manufactured home units is prohibited in the Floodway District.

9.12 If allowed in the Flood Fringe District, placement or replacement of manufactured home units is subject to the requirements of Article 5 of this ordinance and the following standards.

(a) New and replacement manufactured homes must be elevated in compliance with Article 5 of this ordinance and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(b) New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Article 7.22.

9.2 Recreational Vehicles: New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this ordinance.

9.21 Recreational vehicles are exempt from the provisions of this ordinance if they are placed in any of the following areas and meet the criteria listed in Article 9.22:

(a) Individual lots or parcels of record.

(b) Existing commercial recreational vehicle parks or campgrounds.

(c) Existing condominium-type associations.

9.22 Criteria for Exempt Recreational Vehicles:

(a) The vehicle must have a current license required for highway use.

(b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

(c) No permanent structural type additions may be attached to the vehicle.

(d) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.

(e) Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in Article 9.22.

(f) An accessory structure must constitute a minimal investment

9.23 Recreational vehicles that are exempt in Article 9.22 lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be

treated as new structures subject to the elevation and floodproofing requirements of Article 5.0 of this ordinance. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

ARTICLE 10.0 ADMINISTRATION

10.1 Zoning Administrator: A Zoning Administrator or other official designated by the City Council must administer and enforce this ordinance.

10.2 Permit Requirements:

10.21 Permit Required. A permit must be obtained from the Zoning Administrator prior to conducting the following activities:

- (a) The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.
- (b) The use or change of use of a building, structure, or land.
- (c) The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this ordinance.
- (d) The change or extension of a nonconforming use.
- (e) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
- (f) The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- (g) Relocation or alteration of a watercourse, unless a public waters work permit has been applied for.
- (h) Any other type of "development" as defined in this ordinance.

10.22 Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

- (a) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
- (b) Location of fill or storage of materials in relation to the stream channel.
- (c) Copies of any required municipal, county, state or federal permits or approvals.
- (d) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

10.23 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this ordinance.

10.24 Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building

elevations were accomplished in compliance with the provisions of this ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect.

- 10.25 Record of First Floor Elevation. The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.
- 10.26 Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Article 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- 10.27 Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

10.3 Variances:

- 10.31 Variances. The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this ordinance as will not be contrary to the public interest. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with Minnesota Statutes, Chapter 462 and Section 4, Subd. 6 of the Zoning Ordinance.
- 10.32 Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
- 10.33 Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
- (a) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - (b) Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (c) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 10.34 Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such construction below the base or regional flood level

increases risks to life and property. Such notification must be maintained with a record of all variance actions.

10.35 General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

- (a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
- (b) The danger that materials may be swept onto other lands or downstream to the injury of others;
- (c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
- (d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
- (e) The importance of the services to be provided by the proposed use to the community;
- (f) The requirements of the facility for a waterfront location;
- (g) The availability of viable alternative locations for the proposed use that are not subject to flooding;
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (j) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

10.36 Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

10.37 Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

10.38 Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

10.4 Conditional Uses:

10.41 Administrative Review. An application for a conditional use permit under the provisions of this ordinance will be processed and reviewed in accordance with Section 4 of the zoning ordinance.

10.42 Factors Used in Decision-Making. In passing upon conditional use applications, the City Council must consider all relevant factors specified in other sections of this ordinance, and those factors identified in Article 10.35 of this ordinance.

- 10.43 Time for Acting on Application. The City Council must act on an application in the manner described above within 60 days from receiving the complete application, in accordance with Minnesota Statutes Article 15.99.
- 10.44 Conditions Attached to Conditional Use Permits. The City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
- (a) Modification of waste treatment and water supply facilities.
 - (b) Limitations on period of use, occupancy, and operation.
 - (c) Imposition of operational controls, sureties, and deed restrictions.
 - (d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 - (e) Floodproofing measures, in accordance with the State Building Code and this ordinance. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
- 10.44 Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- 10.45 Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

ARTICLE 11.0 NONCONFORMITIES

- 11.1 **Continuance of Nonconformities:** A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Article 2.939(b) of this ordinance, are subject to the provisions of Articles 11.11 – 11.15 of this ordinance.
- 11.11 A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its nonconformity. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.
- 11.12 Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 11.13 and 11.17 below.
- 11.13 The cost of all structural alterations or additions to any nonconforming structure over the life of the structure may not exceed 50 percent of the market value of the structure unless the conditions of this Article are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of Article

4.0 or 5.0 of this ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

- 11.14 If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance. The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.
- 11.15 If any nonconformity is substantially damaged, as defined in Article 2.938 of this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Articles 4.0 or 5.0 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
- 11.16 If any nonconforming use or structure experiences a repetitive loss, as defined in Article 2.935 of this ordinance, it must not be reconstructed except in conformity with the provisions of this ordinance.
- 11.17 Any substantial improvement, as defined in Article 2.939 of this ordinance, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Article 4.0 or 5.0 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

ARTICLE 12.0 PENALTIES AND ENFORCEMENT

- 12.1 **Violation Constitutes a Misdemeanor:** Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.
- 12.2 **Enforcement:** Nothing in this ordinance restricts the City of Ada from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to the following:
- 12.21 When an Ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency offices along with the City's plan of action to correct the violation to the degree possible.
- 12.22 The Zoning Administrator shall notify the suspected party of the requirements of this ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either: (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.
- 12.23 If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional

violation of this ordinance and shall be prosecuted accordingly. The Zoning Administrator may also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this ordinance.

12.24 The Zoning Administrator and City Council may utilize the full array of enforcement actions available to them, including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

ARTICLE 13.0 AMENDMENTS

13.1 **Floodplain Designation – Restrictions on Removal:** The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

13.2 **Amendments Require DNR Approval:** All amendments to this ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

13.3 **Map Revisions Require Ordinance Amendments.** The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Article 2.3 of this ordinance.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.

Adopted by the _____ City Council
(Ada)

This _____ of _____, _____
(Day) (Month) (Year)

Attest: _____, Mayor
(Name of Elected Official)

Attest: _____, City Clerk
(Name of Community Official)

Stamp With Community Seal:

Employee Certifications for Part-Time Employees

Issue: Full-time employees covered by the labor agreement are entitled to an extra \$.50 per hour in compensation when they get non-job required certifications that benefit the City of Ada, e.g. a Clerk's Certificate. Part-time employees who pursue certifications are not entitled to the same benefit. In an attempt to assist the city in managing pool operations, the Administrator requested that two Public Works employees pursue their Certified Pool Operator (CPO) licenses thereby entitling these employees to \$.50 more per hour. A Desk Clerk at the Dekko, who is a part-time employee, recently educated herself and is now assisting the city as a CPO however she does not get the \$.50 per hour.

Recommendation: To remain equitable as an employer and inspire employees to educate themselves and fill critical skill gaps, I recommend that the same \$.50 per hour benefit for part-time employees become applicable effective the next pay period.

Solid Waste Management Tax

Issue: On 19 May 2015, the City of Ada was notified by the State of Minnesota Special Taxes Division that during the period of October 31, 2011 to March 31, 2015, the City of Ada unintentionally underpaid the State tax relating to the fuel surcharge. As such, the City of Ada has been given 60 days to appeal or pay a fee of \$2,284.92 (\$2,166.03 in taxes that weren't collected and \$118.89 in interest).

Action: The City of Ada will pay the State of Minnesota the tax fees that were not collected and when garbage rates are adjusted toward the end of the year for 2016 rates, this new charge will be included in the customer bills. No fines were levied against the City of Ada as the issue was unintentional.

June 2015

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
	1	2 Regular City Council Mtg 6:00 pm City Hall	3	4	5	6
7	8	9	10 Beautification Comm Mtg 5:30 p.m. at Cemetery	11	12	13
14	15 Public Safety Comm PS Bldg – 5:30 p.m.	16	17	18	19	20
21	22	23	24	25 EDA Meeting - Dekko Mtg Rm 8:00 a.m.	26	27
28	29 Public Works Comm PW Bldg – 5:30 p.m.	30				