

FARGO CITY COMMISSION AGENDA
Monday, January 25, 2010 - 5:00 P.M.

CITY COMMISSION MEETINGS ARE BROADCAST LIVE ON TV FARGO 12 (Channel 12). They are rebroadcast each Monday at 5:00 p.m., Thursday at 7:00 p.m. and Saturday at 8:00 a.m.; and are also included in our video archive at www.cityoffargo.com/commission

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, January 11, 2010).

*** Consent Agenda - Approve the Following ***

- a. 2nd reading, waive reading and final adoption of an Ordinance Relating to Secondhand Goods Dealers; 1st reading, 1/11/10.
- b. Waive requirement to receive and file an Ordinance one week prior to first reading and first reading of an Ordinance Relating to Taxicabs, Owners and Drivers, Limousines and Handicapped Vans.
- c. Small Claims Court Claim Affidavit filed by Meghan Raechele vs. the City of Fargo Street Department.
- d. Employee Policy No. 400-008B, Drug & Alcohol Policy – Federal Transit Administration.
- e. Extension of the Job Access Reverse Commute (JARC) grant for Fargo Senior Services until all of the remaining funds are expended.
- f. Memorandum of Understanding with the F-M Metropolitan Council of Governments, the States of North Dakota and Minnesota and the City of Moorhead for transit planning.
- g. Social media policy for City of Fargo employees and volunteers.
- h. Applications for property tax exemptions for improvements made to buildings:
 - (1) Rachel Jordan, 3022 8th Street North (5 year).
 - (2) Margaret Jermyn, 1320 10th Street North (5 year).
 - (3) John Mrozla, 1506 10th Street North (5 year).
 - (4) Jeff and Mindy Western, 1418 3rd Avenue North (5 year).
 - (5) Shawn Oleson, 1609 9th Avenue South (5 year).
 - (6) Marjorie Morris, 305 20th Avenue North (5 year).
 - (7) Terry and Shirley Nerby, 2515 2nd Street North (5 year).
 - (8) Audrey Schock, 2006 8th Street North (5 year).
 - (9) James and Sandra Traeger, 1318 16th Street South (5 year).
 - (10) Kevin and Jean Powers, 3413 Peterson Parkway (3 year).
 - (11) Richard and Alice Newsam, 3007 9 1/2 Street North (3 year).
 - (12) Robert and Patricia Walton, 2610 Lilac Lane North (3 year).
 - (13) Karen Naastad, 1023 12th Street North (5 year).
- i. Pledged securities as of December 31, 2009.

Page 2 Six month extension of the Fargo American Legion alcoholic beverage license.

- k. Receive and file Ordinance Relating to Issuance and Transfer of Licenses (requiring that Class "E" Alcoholic Beverage Permit applications be received 7 days prior to event).
- l. Purchase of one Hook Lift Roll-Off from Olympic Sales, Inc. for \$41,000.00.
- m. Request of U Motors, Inc. for an extension of the noise ordinance until 11:00 p.m. on 7/24/10 for their 3rd Annual Backyard BBQ and Bike Bash.
- n. Three year renewal of contract with Parking Service for operation of parking facilities (corrected agreement).
- o. Resolution Approving Prairie Grove Second Addition Plat.
- p. Applications for Games of Chance:
 - (1) Mike Walters Benefit for a raffle on 1/30/10; Public Spirited Resolution.
 - (2) North Central Turf Grass Association for a raffle on 2/25/10; Public Spirited Resolution.
 - (3) Clara Barton Hawthorne PTA for a raffle on 3/6/10.
 - (4) Fargo Catholic Schools Network for a raffle on 4/24/10.
- q. Relinquishment of Easement concerning property owned by Elm Terrace Condo Association for Oak Grove Mickelson Field Permanent Dike for flood control (District No. 5902).
- r. Resolution Authorizing the submittal of a formal loan application to the North Dakota Department of Health for clarifier improvements under the Clean Water State Revolving Fund and American Recovery and Reinvestment Act of 2009.
- s. Engineering Services Contract Amendment in the amount of \$123,900 for Project No. 5701.
- t. 50/50 Cost Share with USGS for web camera installation and maintenance at the Red River near Main Avenue.
- u. Local match funding estimated at \$270,000 for 2009 flood arterial street repairs.
- v. Request for Proposals for engineering services for Project Nos. 5908-03, 5681-02 and 5925-01.
- w. Bills.
- x. Change Order No. 1 for an increase of \$22,316.00 for Improvement District No. 5525.
- y. Create Improvement District Nos. 5640 and 5907.

*** Regular Agenda ***

- 1. Receive and file Ordinances:
 - a. Relating to Dogs and Cats.
 - b. Relating to Ordinance Violations (potentially dangerous and dangerous dogs).
- 2. Receive and file Ordinance Relating to Noise Control and Radio Interference ("jake brakes").

- a. Application filed by FSB Associates, LLC d/b/a Rivals Sports Bar for a Class "Z" Alcoholic Beverage License at 4265 45th Street South, Suite 161.
4. Communication from City Attorney recommending changes in the City's state of emergency Ordinance.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 241-1310 or TDD 241-8258. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.

Minutes are available on the City of Fargo Web site at www.cityoffargo.com/commission



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Office of the City Attorney

January 21, 2010

City Attorney
Erik R. Johnson
Assistant City Attorney
Robert L. "Butch" McConn, Jr.

City Commission
City Hall
200 North Third Street
Fargo, ND 58102

City Prosecutors
Scott O. Diamond
Jodi A. Bass

Re: Dog and Cat Ordinance

Dear Commissioners:

Pursuant to your directive I have prepared an ordinance that implements the revisions to the various dog and cat ordinances of the city of Fargo in conformance with the suggestions by the committee that was led by Lt. Greg Lemke of the Fargo Police Department. There have been no substantive revisions made to the suggested language provided by the committee. I have also enclosed an amendment to the city's "penalty ordinance" to identify certain of the dangerous and potentially dangerous dog provisions as class B misdemeanors (other of the violations are infractions).

SUGGESTED MOTION: I move to receive and file An Ordinance Amending Section 12-0104, 12-0105 and 12-0111, Repealing and Re-Enacting Section 12-0112, Repealing Section 12-0113 and Enacting Section 12-0113 through 12-0117 of Article 12-01 and Amending Sections 12-0201 and 12-0203 of Article 12-02, all of Chapter 12 of the Fargo Municipal Code Relating to Dogs and Cats and to receive and file An Ordinance Amending Section 1-0305.A of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Ordinance Violations; and to place the ordinances on for first reading at the next regularly scheduled city commission meeting.

Sincerely,

A handwritten signature in black ink, appearing to be "ERJ", written over a horizontal line.

Erik R. Johnson

ERJ/jmf
Enclosure

1a

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 AN ORDINANCE AMENDING SECTIONS 12-0104, 12-0105 AND 12-0111,
2 REPEALING AND RE-ENACTING SECTION 12-0112, REPEALING SECTION 12-0113
3 AND ENACTING SECTIONS 12-0113 THROUGH 12-0117
4 OF ARTICLE 12-01 AND AMENDING SECTIONS 12-0201 AND 12-0203 OF
5 ARTICLE 12-02, ALL OF CHAPTER 12 OF THE FARGO MUNICIPAL CODE
6 RELATING TO DOGS AND CATS

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

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

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

14 WHEREAS, the Board of City Commissioners deems it necessary and appropriate to
15 implement revisions to the City of Fargo dog and cat ordinances by the adoption of this
16 ordinance;

17 NOW, THEREFORE, Be It Ordained by the Board of City Commissioners of the City of
18 Fargo:

19 Section 1. Amend.

20 Section 12-0104 of Article 12-01 of Chapter 12 of the Fargo Municipal Code is amended to
21 read as follows:

22 12-0104. Animal must have collar with rabies tag and license tag attached. Upon payment
23 of the license fee provided for in § 12-0102, the chief of police shall issue to the owner a license
certificate and a metallic tag for each dog and cat so licensed. The shape of the tag shall be changed
every year and the tag shall have stamped thereon the year for which it was issued and the number
corresponding with the number on the certificate. Each owner shall be required to provide each dog
and cat with a collar to which the license tag must be affixed and shall see that the collar and tag are
constantly worn. The collar may not exceed two pounds in weight and must be made of durable
material strong enough to hold the animal for which it is intended. A collar may not be used in a

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1 manner that causes injury or sickness to the animal. Collars may not be equipped with any type of
2 sharp prongs on the inside of the collar or weighted devices that may cause injury or discomfort to
3 the animal's neck. Blunt pronged training collars are only permitted if the collar is properly fitted to
4 the animal and it has not been altered from the manufactured design. In case a tag is lost or
5 destroyed, a duplicate will be issued by the chief of police upon presentation of a receipt showing
6 the payment of the license fee for the current year and the payment of a \$.50 fee for such duplicate.
7 Tags shall not be transferable from one animal to another and no refunds shall be made on any
8 license fee because of death of the animal or the owners leaving the city before expiration of the
9 license period. The metal rabies inoculation tag shall also be kept affixed to the animals collar at all
10 times. The provisions of this ordinance shall not apply to dogs owned by the city of Fargo or any
11 other political subdivision and used for law enforcement purposes.

7 Section 2. Amend.

8 Section 12-0105 of Article 12-01 of Chapter 12 of the Fargo Municipal Code is amended to
9 read as follows:

10 12-0105. Running at large prohibited.--

- 11 A. Every person having the custody or control of any dog or cat shall prevent
12 said animal from leaving the property limits of its owner or keeper without
13 being effectively restrained by a chain or leash not exceeding six feet in
14 length, or, within a vehicle being driven or parked on the street. In the event
15 any such dog or cat is found at large, the owner, custodian or keeper of such
16 animal shall be guilty of a violation of this section.
- 17 B. Every person having custody or control of a leashed animal on property
18 other than his own shall be equipped to, and collect said animal's solid waste
19 when eliminated.
- 20 ~~C. The owner of every fierce, dangerous, or vicious dog shall confine such
21 animal within a building or secure enclosure and such dog shall not be taken
22 out of such building or enclosure unless the dog is securely muzzled.~~
- 23 DC. Every female dog or cat in heat shall be kept confined in a building or secure
enclosure or in a veterinary hospital or boarding kennel in such manner that
such dog or cat cannot come in contact with another dog or cat except for
breeding purposes.
- ~~ED. Any dog or cat that is determined by the Fargo police department to be
fierce, dangerous, or vicious and is not confined as required in subsection
(C) of this section; or a~~Any dog or cat that is determined by the Fargo police
department to be habitually at large is declared to be a public nuisance. The
owner, custodian or keeper of any such animal shall be notified of said
determination in writing and, upon request of the humane officer, shall

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surrender such animal for purposes of placement or destruction; provided, however, any said owner, custodian or keeper of any such animal shall have ten days from the receipt of notification to appeal to the Fargo municipal court and a hearing shall be held. In the event that the court affirms the determination of the police department, the court shall:

1. Order the confinement of such animal within a building or secure enclosure, said animal not to be removed from such building or enclosure without being effectively restrained by chain or leash not exceeding six feet in length; or
2. Order the surrender of such animal to the humane society or other animal placement organization for purposes of placement or destruction.

FE. The owner, custodian or keeper of any animal which has bitten or scratched a human being or other animal, or which is suspected by the humane officer, health officer, or other appropriate city official, of having rabies, shall, in addition to any action or remedy otherwise provided in this article,:

1. At the request of such official, confine any said animal for 10 days in a suitable secure enclosure or, if deemed necessary by said official, in the animal pound.
2. Immediately notify the Fargo police department if any said animal escapes during the above-mentioned 10-day period.
3. Make any and all reports requested in reference to the general health and medical history of said animal.
4. Surrender any said animal for such medical tests as are deemed necessary and submit said animal to treatment, or in the alternative, for destruction.

GF. The provisions of this ordinance shall not apply to any dogs owned by the city of Fargo or any other political subdivision and used for law enforcement purposes.

Section 3. Amend.

Sections 12-0111 of Article 12-01 of Chapter 12 of the Fargo Municipal Code is amended to read as follows:

12-0111. Procedure for complaint.--An individual who wishes to make a complaint regarding violations of sections of this article, excluding § 12-0112 regarding ~~habitually barking, crying or howling dogs or cats,~~ animals disturbing the peace, must contact the Fargo police department and state his name, address, nature and circumstances of the violation. This individual must appear before the judge of municipal court and sign the complaint.

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Section 4. Repeal and Re-enact.

Section 12-0112 of Article 12-01 of Chapter 12 of the Fargo Municipal Code is repealed and re-enacted to read as follows:

12-0112. Animals - Disturbing the peace . --

A. It shall be unlawful for any person to own, keep, have in possession, or harbor any animal or animals which make any noise to the reasonable annoyance of another person or persons. The phrase "to the reasonable annoyance of another person or persons" shall include, but not be limited to: the creation of any noise by any animal or animals which can be heard by any person, including an animal control officer or a law enforcement officer, from a location outside of the building or premises where the animal or animals are located and which animal noise occurs repeatedly over at least a five-minute period of time with no more than a one-minute lapse of time between each animal noise during the five minute period. Any such animals found to be disturbing the peace due to a reasonable annoyance of another person or persons are hereby declared a public nuisance.

B. A law enforcement officer or animal control officer may make a request to stop the annoyance. If after such request to stop or prevent the annoyance, the person violating this section fails or refuses to comply with the request to stop or prevent the annoyance within twenty-four hours of the request or in the event the law enforcement officer or animal control officer determines it necessary to stop the annoyance, the police officer or animal control officer may take custody of the animal or animals. Any animal or animals taken by a law enforcement officer or animal control officer may be reclaimed by the owner of said animal or animals upon payment of a fee in an amount up to \$500 for each animal, said fee to be established by resolution of the board of city commissioners. If the animal is not redeemed, said animal may be put up for adoption or, if no suitable home can be found for the animal or animals, euthanized.

Section 5. Repeal.

Section 12-0113 of Article 12-01 of Chapter 12 of the Fargo Municipal Code is repealed in its entirety.

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Section 6. Enact.

Sections 12-0113 through 12-0116 of Article 12-01 of Chapter 12 of the Fargo Municipal Code are enacted to read as follows:

12-0113. Animals - shelter requirements. -- No person shall keep an animal outdoors on any premises without providing proper containment and shelter for said animal at all times. Proper containment and shelter is defined as: (a) the animal has access to the owner's home through a door during all times spent outside; (b) the animal is at all times in the company of a human being; or (c) the animal is at all times provided access to an enclosed building, a house designed for the animal, or a similar structure. The term proper containment and shelter shall also mean that the animal must have sufficient space within the containment area that is outside the shelter to move about and be able to relieve itself away from its shelter. Said containment and shelter must be such that:

- A. The shelter must have at least three sides, a roof and a floor;
- B. The shelter must have a floor raised off the ground, free of cracks, depressions, and rough areas where insects, rodents, or eggs from parasites may lodge;
- C. The containment area and shelter must be cleaned and maintained in a manner designed to insure the best possible sanitary conditions. Excreta shall be removed from the containment area and shelter as often as necessary, and rugs, blankets, and/or other bedding shall be kept clean and dry.
- D. Both the containment area and shelter must be of adequate size to allow the animal to stand up and turn about freely, stand easily, sit and lie in a comfortable and normal position.
- E. The shelter must have a floor constructed so as to protect the animal's feet and legs from injury.
- F. The containment area and shelter must allow animals kept outdoors to remain dry during rain or snow.
- G. The containment area and shelter must have sufficient clean bedding material and/or other means of protection from the weather and elements.
- H. The containment area and shelter must provide sufficient shade to allow the animals kept outdoors to protect themselves from the direct rays of the sun, when sunlight is likely to cause overheating and/or discomfort.
- I. The containment area and shelter must be structurally sound and maintained in good repair to protect the animal from injury.

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J. The containment area and shelter must be constructed and maintained so that the animal contained therein has convenient access to clean food and water.

12-0114. Animals - Food and water requirements. --

A. Food. No person shall keep an animal on any premises, unless the animal is provided sufficient food daily to maintain proper body weight and good health.

1. The animal shall be provided food, which shall be free to contamination, and be wholesome, palatable, and of sufficient quantity and quality to meet the normal daily requirements for the condition and size of the animal.

2. Food receptacles shall be accessible to the animal and shall be located so as to minimize contamination by excreta and insects. Feeding pans shall be durable and kept clean. Disposable food receptacles may be used but must be discarded after each feeding. Self-feeders may be used for the feeding of dry food, and shall be sanitized regularly to prevent molding, deterioration, or caking of feed. Spoiled or contaminated food shall be disposed of in a sanitary manner.

B. Water. No person shall keep an animal on any premises unless the animal has fresh, potable water at all times, said water to be contained in such a manner that prevents the water from freezing during cold temperatures. Clean potable water shall be made available to the animal unless restricted by a veterinarian as a treatment for a specific medical or surgical condition and:

1. If the water is kept in a container, this container shall be of such design as to prevent leaking, tipping or spilling of the water contained therein. If necessary to accomplish this, the container shall be secured to a solid structure or secured to the ground. Watering containers shall be kept clean, kept out of the sun, and must be emptied and refilled with fresh water at least once a day; or,

2. If water for the animal is provided through an automatic or on-demand device, the water supply connected to the device must function twenty-four hours a day and the water receptacle and bowl must be cleaned regularly.

12-0115. Chains, kennels, tethers, and tie outs. -- Chains, tethers, or tie outs must be at least three times the length of the animal secured to it and may not exceed ten pounds in total weight. Such chains, tethers or tie outs must be of durable material, that is strong enough to hold the animal being chained, tethered or tied-out. Any animal secured with a tie

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1 out must be so secured in an area that does not allow the animal to become tangled around
2 objects and, thus, preventing the animal from having access to water and shelter. Chains,
3 tethers and tie outs must be placed in such a location as to preclude or prevent the animal
4 secured from reaching a public sidewalk, street or alley. The chain, tether or tie out must
5 not allow the secured animal access to any neighboring property unless written permission
6 has been obtained from the property owner. Animals restrained by a chain, tether, or other
7 tie out device, shall not be secured to any stationary object for more than two consecutive
8 hours, with at least a two-hour rest or relief period between each chaining, and no more than
9 four two-hour chaining periods in a twenty-four hour period. Kennels and pulley/cable run
10 systems shall be exempt from the two-hour restriction provided that:

- 11 A. The length of the pulley system is at least twelve feet and the attached tether
12 has a swivel at both ends;
- 13 B. The height of the pulley system is mounted at least seven feet above the
14 ground;
- 15 C. The space provided inside the kennel is at least thirty-two square feet;
- 16 D. The kennel floor is made of solid material, such as cement, brick, durable
17 plastic or other suitable material, not including, however, wood ;
- 18 E. The animal or animals so confined or secured to a kennel or pulley system
19 are not confined in it, or to it, for more than ten consecutive hours in a
20 twenty-four hour period.

21 12-0116. Number of Dogs and/or Cats - Limitation. --

- 22 A. It shall be unlawful to keep, harbor, own, or in any way possess more than
23 six dogs and cats over six months of age upon or about the premises of any
dwelling unit, within the corporate limits of the City of Fargo. The
maximum number of dogs and cats, combined, may not exceed six.
- B. Exception - A person may request a permit from the Fargo Police
Department to keep more than six dogs and cats as part of a qualified home
used by organizations for rescue or sheltering of abandoned or lost animals.
For purposes of this section, a "qualified home" shall mean a home which
has received written approval to house abandoned or lost animals by or on
behalf of a bona fide organization involved in the rescue or sheltering of
abandoned or lost animals, and which organization has been in existence
within the United States of America and operating for at least one year. The
permit shall be for a period of one year, and may be renewed annually,
provided there have been no violations of the provisions of this chapter
resulting in an administrative penalty, infraction, or criminal violation being
imposed on the holder of said permit. The fee for the permit shall be set and
reviewed from time to time by the board of city commissioners.

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Section 7. Penalty.

A person who willfully violates Sections 1 through 6, above, of this ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed \$500; the court to have power to suspend said sentence and to revoke the suspension thereof.

Section 8. Enact.

Section 12-0117 of Article 12-01 of Chapter 12 of the Fargo Municipal Code is enacted to read as follows:

12-0117. Potentially dangerous and dangerous dogs.--

A. Designation.

1. Any dog inside the Fargo city limits may be designated as a potentially dangerous dog if the dog:
 - a. When unprovoked, bites a human or domestic animal on public or private property;
 - b. When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
 - c. Has a known propensity, tendency, or disposition to attack, unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
2. Any dog within the Fargo city limits may be designated as a dangerous dog if the dog has:
 - a. Inflicted substantial bodily injury on a human being or a domestic animal on public or private property;
 - b. Killed a domestic animal while off the owner's property; or
 - c. Been found to be potentially dangerous, and after the owner has been notified that the dog has been designated as being potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

B. Procedure for designating a dog as potentially dangerous or dangerous.

1. Whenever there is reasonable cause to believe that a dog is dangerous or potentially dangerous, an application may be presented to the municipal court for a finding that the dog is dangerous or potentially dangerous. After receiving evidence at a hearing on the

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matter, the municipal court shall enter an order containing the court's findings, established by a preponderance of the evidence, whether the dog is dangerous or potentially dangerous and the court shall be authorized to order compliance by the owner of the dog with the provisions of this section and any other conditions which are necessary to ensure the health and safety of others. Such conditions may include, but are not limited to:

- a. That the owner not sell or transfer ownership of the dog.
- b. That the owner advise the court if the dog bites anyone else.
- c. That the owner advise the court if the dog dies or becomes injured.
- d. That the dog undergo obedience training.
- e. That the owner post the property with warnings about a dangerous animal.
- f. That the dog not be allowed outdoors during certain times, such as between 7:30-9:30 a.m. and 2:00-4:00 p.m. (i.e. times when school age children may be present), or the time when it is known that the postman delivers the mail every day.
- g. Compliance with all other requirements of this section.

- 2. When a dog is designated to be potentially dangerous or dangerous, the owner shall be notified in writing of such designation.
- 3. Any dog deemed dangerous or potentially dangerous by another jurisdiction and subsequently brought into the city shall be deemed a dangerous or potentially dangerous dog and abide by the provisions of this chapter to notify the police department and meet the registration requirements.

C. Registration Requirements. No potentially dangerous dog or dangerous dog shall be kept in the city of Fargo unless the owner, at his or her own cost, has implanted a microchip in the dog, completed an application to register the dog as potentially dangerous or a dangerous dog and submitted said application to the police department. Prior to acceptance of an application, a city representative will retrieve and verify from said microchip and record the microchip information. In addition, the owner shall be required to post a sign, satisfactory to the municipal court judge, at the owner's or any caretaker's residence notifying the public of the presence of a dangerous or potentially dangerous dog.

D. Application contents.
1. The application to register the dog as a potentially dangerous dog shall include the following:

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- a. The owner's address and home, work and cell telephone number and the implanted microchip identification number, as well as the backup contact person and number;
- b. Proof that said dog has been sterilized and has current vaccinations;
- c. A yearly registration fee of \$200.

2. The application to register the dog as a dangerous dog shall include the following:

- a. The owner's address and home, work and cell telephone number; the implanted microchip identification number and the address, home, work and cell telephone number designated by the owner as a back-up contact person;
- b. Proof of continuing liability insurance in a single incident amount of \$300,000 for bodily injury to or death of any person or persons or for damage to property owned by the persons which may result from the ownership, keeping, or maintenance of dogs designated as dangerous;
- c. Proof that said dog has been sterilized and has current vaccinations;
- d. A yearly registration fee of \$500.

E. Yearly registration requirement. All dogs designated as potentially dangerous dogs or dangerous dogs shall file a new application each year with the accompanying registration fees no later than the third Monday of each year.

F. Removal of designation of potentially dangerous dog. The owner of a potentially dangerous dog may apply to the municipal court judge to have the designation removed once the following criteria have been met:

- 1. Minimum of 16 weeks of dog training classes attended and providing a certificate of completion signed by training instructor at approved training facility;
- 2. Successfully passing of the Canine Good Citizen Test approved by the American Kennel Club, or an equivalent test adopted by a similar nationally recognized organization; and providing a certificate of completion;
- 3. No complaints about the dog have been received by the City of Fargo within the previous 12 months as confirmed by the chief of police or designee of the chief.

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- G. A dog designated as potentially dangerous must be leashed and be under the control of a competent adult at all times when off the owner's property or the property of a caretaker of the dog.
 - H. Additional requirements for dangerous dogs. In addition to filing a yearly application to register a dangerous dog and paying the accompanying fee of \$500, the owner of a dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure. If the dog is outside an enclosure, it must be securely muzzled and restrained by a chain or leash no longer than 6 feet under the physical restraint of a competent adult.
 - I. Potentially dangerous and dangerous dogs brought into the city. Any dog designated as potentially dangerous or dangerous by another jurisdiction must be registered within 24 hours of being brought into the city limits of Fargo. Such registration shall be with the police department. A dog declared potentially dangerous by another jurisdiction may be brought into the city limits of Fargo provided the owner:
 - 1. Notifies the police department of the dog's microchip number, location where the animal will be kept, owner contact information and length of stay;
 - 2. Complies with all the requirements established by said jurisdiction, including the laws and applicable court order from said jurisdiction;
 - 3. Removes the dog from the city after a period of no more than 14 days.
 - J. Remedies and Enforcement.
 - 1. It shall be a Class B misdemeanor offense to:
 - a. Be an owner of, or be in possession of, a potentially dangerous dog in violation of the registration requirements set forth in subsection C of this ordinance; or,
 - b. Allow a dangerous dog to "run at large" as prohibited by subsection C of this ordinance;
 - 2. Dogs in violation of registration requirements may be impounded immediately by the police department and held until brought into compliance. If the dog is found running at large, and is not brought into compliance within 14 days of notification of its designation as a potentially dangerous dog, the dog will be impounded and held until brought into compliance with this section. If not brought into compliance within 5 working days after impoundment, the dog may be euthanized. The owner of said dog is responsible for boarding and expenses associated with this process.
 - 3. No person may own a dog in the city of Fargo if the person has been convicted of a violation of this section, or of an equivalent ordinance

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or statute of another state or political subdivision, more than once. If any member of a household is prohibited from owning a dog pursuant to this section, unless specifically approved with or without restrictions by the police department, no person in the household is permitted to own a dog.

Section 9. Amend.

Section 12-0201 of Article 12-02 of Chapter 12 of the Fargo Municipal Code is amended to read as follows:

12-0201. Unlawful to keep vicious animal.--Any person or persons in the city, being the owner or keeper of any dangerous, vicious, mischievous, or unruly animal and knowing said animal to be such, ~~must comply with the specific requirements and conditions set out in § 12-0105 prohibiting such an animal~~ shall allow or permit the same to be or run at large; provided, however, that dangerous or potentially dangerous dogs are subject to the provisions of Section 12-0117.

* * *

Section 10. Amend.

Section 12-0203 of Article 12-02 of Chapter 12 of the Fargo Municipal Code is amended to read as follows:

12-0203. Unlawful to keep farm animals within city limits-- Public nuisance--Exceptions.-- It shall be unlawful for the owner or owners of any farm animal mentioned in § 12-0213 to allow the same to be kept within the limits of the city, except that such farm animals may be kept on property which is classified as "AG-Agricultural District" under the zoning ordinances of the city of Fargo. It shall further be unlawful to allow any such farm animal to run at large on the streets, avenues, alleys, parks, or public grounds of the city, or to be tethered or staked out on the streets, parks, or public grounds of the city, or to be tethered or staked in such a manner as to go upon any street, sidewalk, crosswalk, or public ground within the city. Any such animals found within the corporate limits of the city except on property zoned with an "AG-Agricultural District" zoning classification as herein provided, are declared to be public nuisances. This section shall not apply to the owners of any farm animals kept as a part of any state educational institution or the owners of any farm animals temporarily exhibited at any fair or agricultural exhibition, provided said animals are stabled and cared for in a sanitary manner approved by the health department.

* * *

Section 11. Penalty.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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A person who willfully violates Subsections C or G of Section 12-0117 of this ordinance pertaining to owning or possessing a dangerous dog or potentially dangerous dog or allowing a dangerous dog to run at large is guilty of a Class B misdemeanor. Every person, firm or corporation violating an ordinance which is punishable as a Class B misdemeanor shall be punished by a fine not to exceed \$1,000, or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof.

Section 11. Effective Date.

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

Dennis R. Walaker, Mayor

(SEAL)

Attest:

First Reading:
Second Reading:
Final Passage:
Publication:

Steven Sprague, City Auditor

1b

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 1-0305.A
OF ARTICLE 1-03 OF CHAPTER 1
OF THE FARGO MUNICIPAL CODE
RELATING TO ORDINANCE VIOLATIONS

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

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

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

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

NOW, THEREFORE,

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

Section 1. Amendment.

Section 1-0305 of Article 1-03 of Chapter 1 of the Fargo Municipal Code is hereby amended to read as follows:

1-0305. Classification of ordinance violations.--

A. Violations of the following ordinances are Class B misdemeanors, subject to punishment as hereinabove provided:

1. Section 8-0305(A)(1) (cancelled or revoked registration), section 8-0305(A)(2) (fictitious registration), section 8-0305(A)(3) (lending registration plates), section 8-0308 (reproducing operator's or driver's license or permit), section 8-0309 (driving under suspension), section 8-0310 (driving under the influence), section 8-0314 (reckless driving), section 8-0320 (driving without liability insurance - \$150.00 minimum fine), section 8-0803 (accidents involving damage to vehicle),

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 section 8-0804 (duty to give information and render
2 aid), section 8-0805 (duty upon striking fixture or
3 other property), section 8-0809 (false reports), section
4 10-0101 (minor using alcohol), 10-0104 (curfew),
5 section 10-0201 (indecent exposure), section 10-0301
6 (disorderly conduct), section 10-0304 (carrying
7 weapons), section 10-0317 (resisting police officer),
8 section 10-0319 (incendiary devices), section 10-
9 0320 (registration in schools), section 10-0321
10 (criminal mischief), section 10-0322 (harassment),
11 section 10-0323 (simple assault), section 10-0324
12 (aiding and abetting), section 10-0601 (shoplifting),
13 section 10-0602 (theft), section 10-0702 (order to
14 disperse), section 10-0703 (tenant/owner cooperation
15 required), section 12-0117(C) and 12-0117(G)
16 (potentially dangerous and dangerous dogs), section
17 13-0511 (removal of wastes), section 13-0513
18 (fee/permit for hauling waste), section 13-0529
19 (misuse of compost sites), article 13-13 (drug lab
20 cleanup), chapter 17 (sewers and sewerage), article
21 18-09 (excavation code), section 25-1509(A) (selling
22 alcoholic beverage to minor), section 25-1513(A)
23 (selling/consuming alcohol in vehicle/public), section
25-1513(B) (possessing/consuming alcohol in public
building), section 25-1513(C) (minor misrepresenting
age), and section 25-1513(D) (delivery of alcoholic
beverage to minor), section 25-3302 (body art),
section 25-3306 (body art unlawful practices); article
25-36 (tanning facilities).

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. Effective Date.

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

Dennis R. Walaker, Mayor

(SEAL)

Attest:

First Reading:
Second Reading:
Final Passage:
Publication:

Steven Sprague, City Auditor

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Office of the City Attorney

January 21, 2010

City Attorney
Erik R. Johnson
Assistant City Attorney
Robert L. "Butch" McConn, Jr.

City Commission
City Hall
200 North Third Street
Fargo, ND 58102

City Prosecutors
Scott O. Diamond
Jodi A. Bass

Re: Compression Brakes Ordinance

Dear Commissioners:

Pursuant to your directive I have prepared an ordinance that implements revisions to the noise control and radio interference ordinance of the city of Fargo to prohibit the use of compression brakes on semi-tractors.

SUGGESTED MOTION: I move to receive and file An Ordinance Amending Section 11-0205 of Article 11-02 of Chapter 11 of the Fargo Municipal Code Relating to Noise Control and Radio Interference; and to place the ordinances on for first reading at the next regularly scheduled city commission meeting.

Sincerely,

A handwritten signature in black ink, appearing to be "ERJ", written over a horizontal line.

Erik R. Johnson

ERJ/jmf
Enclosure

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 11-0205 OF
ARTICLE 11-02 OF CHAPTER 11 OF THE
FARGO MUNICIPAL CODE RELATING TO
NOISE CONTROL AND RADIO INTERFERENCE

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

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

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

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement revisions to the City of Fargo dog and cat ordinances by the adoption of this ordinance;

NOW, THEREFORE, Be It Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Amend.

Section 11-0205 of Article 11-02 of Chapter 11 of the Fargo Municipal Code is amended to read as follows:

ARTICLE 11-02

NOISE CONTROL AND RADIO INTERFERENCE

Section

11-0205 Motorized vehicles—compression brakes prohibited.

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

11-0205. Motorized vehicles—compression brakes prohibited.--It shall be unlawful to operate a motorized vehicle within the city limits which creates a noise or sound which exceeds the noise level limits set out in Table 2, as follows:

TABLE 2. LIMITING NOISE LEVELS FOR MOTOR VEHICLES

- A. Trucks, buses, construction equipment, or any motor vehicle with a gross weight rating of 10,000 pounds or more: Maximum allowable limit: 88 dB(A) measured at or corrected to 25 feet.
- B. Passenger cars, pickups, vans, motorcycles, snowmobiles, or any motor vehicle with a gross weight rating less than 10,000 pounds: Maximum allowable limit: 80 dB(A) measured at or corrected to 25 feet.
- C. Interstate Motor Carrier:
Maximum allowable limit:
 - 1. 92 dB(A) measured at or corrected to 25 feet when traveling on roadways with speed limits of 35 mph or less.
 - 2. 92 dB(A) measured at or corrected to 25 feet when traveling on roadways with speed limits of more than 35 mph.
- D. Notwithstanding any other provision of the Fargo Municipal Code, it shall be unlawful for any person within the city limits to make, or cause to be made, loud or disturbing noises with any mechanical devices operated by compressed air and used for purposes of assisting braking on any semi-tractor.

Section 2. Penalty.

A person who willfully violates this ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed \$500; the court to have power to suspend said sentence and to revoke the suspension thereof.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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Section 3. Effective Date.

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

Dennis R. Walaker, Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

3a

MEMORANDUM

TO: Chief Keith Ternes
FROM: Sergeant Mathew Sanders
DATE: December 11th, 2009

SUBJECT: Application for Class "Z" Alcoholic Beverage License for FSB Associates, LLC d/b/a: Rivals Sports Bar to be located at 4265 45 St S suite 161.

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation I questioned the applicant's criminal background, credit history, past residence history as well as any interaction they have had with law enforcement in any state.

The following information was discovered through this investigation:

David Erickson (Owner/Manager)

Criminal History: No areas of concern

Credit History: No areas of concern

Mr. Erickson has a Minnesota Liquor License for his business Dave's Southside Taps. I found no liquor license violations on file for that business.

Business Location

The application submitted is for a business currently located at 4265 45 St S suite 161. Fargo, ND. Within the immediate area the following establishments currently hold a liquor license: Ristreto Coffee and Tea, Justy's BBQ and Grill, Lakemode Liquors.

Conclusion

I believe I have discovered all information related to the listed applicant(s) and all information related to the issuance of the requested liquor license. I have provided this completed background investigation to Fargo Police Chief Keith Ternes for his review and recommendation.

Page 26
Matt Sanders

NOTICE OF HEARING

Application For Alcoholic Beverage License

Notice is hereby given that the Board of City Commissioners of the City of Fargo, North Dakota, will conduct a Public Hearing in the City Commission Room, City Hall, on Monday, January 25, 2010 at 5:15 o'clock p.m. to consider for approval, an application of a Class "Z" Alcoholic Beverage License for FSB Associates, LLC d/b/a: Rivals Sports Bar to be located at 4265 45 St S suite 161.

Any interested person may appear and will be heard.

City Auditor's Office
(January 4, 2010)

Instructions to Forum

Please publish as a Public Notice in the Legal Ad Section on Monday January 4, 2010.

I will need an affidavit of publication.

Bill to: City Auditor's Office
 Attn: Michelle
 200 Third Street North
 Fargo, ND 58102

If you have any questions, please call Sharon at 241-1304.

December 2, 2009

Steve Sprague-

Enclosed is my application for an On-Sale Liquor License in Fargo. Hopefully everything is filled out accordingly. If there are any questions or other information needed feel free to give me a call on my cell phone at 701-866-2124. Look forward to hearing from you soon.

Sincerely,

A handwritten signature in black ink, appearing to read "David Erickson", written in a cursive style.

David Erickson



APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

The following section to be completed by City Staff:

Date Received by Auditor's Office: 12-3-09
Investigations Fee Paid (\$250) Yes No Date paid: 12-3-09
Check # 2506

Reviewed -Health Department by: _____ Date: _____
Comments (or see attached report):

Reviewed -Fire Department by: _____ Date: _____
Comments (or see attached report):

Reviewed -Inspections Division by: _____ Date: _____
Comments (or see attached report):

Reviewed -Police Department by: Sgt. Matthew Jones Date: 12-11-09
(See attached report):

[Signature] Approval Recommendation _____ Denial Recommendation
[Signature] Chief of Police _____ 12-11-09 Date

Reviewed -Liquor Control Committee on (date): _____

_____ Approval Recommendation _____ Denial Recommendation
(See attached comments or minutes)

Reviewed -City Commission on (date): _____

_____ Approval _____ Denial
(See attached minutes)

Business/Company name: FSB Associates LLC

Doing business as: Rivals Sports Bar

This application is for the Class or Classes of Licenses checked:

- () Class A Authorizes the licensee to sell "on-sale" only.
- () Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- () Class B "Limited" Authorizes the licensee to sell "off-sale" only. License is Non Transferable. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- () Class AB Authorizes the licensee to sell "on-sale" and "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- () Class ABH Authorizes the licensee to sell "on-sale" and "off sale", at hotels & motels with 100 more guest rooms only.
- () Class ABHRZ Authorizes licensee to sell "on-sale" and "off sale" at hotels in Renaissance Zone with 15 guest rooms
- () Class C Authorizes the licensee to sell beer "on-sale" only.
- () Class D Authorizes the licensee to sell beer "off-sale" only.
- () Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- () Class FA Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% of more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- () Class FARZ Authorizes the licensee to sell "on-sale" only; physical bar allowed. Required to be in the Renaissance Zone. No gaming and no "E" permits allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages. The initial fee is 1/2 of the FA license.
- () Class FA-Golf On USGA Golf Course of 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- () Class G Authorizes the licensee to sell wine and sparkling wine "on-sale" only, served at table or booth, no bar. Requires 50% food sales.
- () Class H Authorizes the licensee to sell beer "on-sale" only, served at table of booth, with no bar allowed and requires 50% food sales.
- () Class I Authorizes the licensee to sell beer, wine, and other sparkling wine "on-sale" only. A physical bar is allowed and requires 50% food sales.
- () Class J Authorizes the licensee to sell "on-sale" only at a non-profit organization for military purposes.
- () Class L Authorizes the licensee to sell "on-sale" only on an excursion boat operating on the Red River.

OK 250.⁰⁰
CR# 2506
12-4-09

- () Class M Authorizes the licensee to operate a "Microbrew Pub" and to sell "on-sale" and "off-sale" offered in conjunction with another license.
- () Class N Authorizes the licensee to sell "on-sale" only at a stadium with a minimum seating capacity of 2,500.
- () Class O Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.
- () Class P Authorizes the licensee to operate a domestic winery and to sell wine "on-sale" and "off-sale." Allows limited beer sales.
- () Class W Authorizes the licensee to operate a wine bar, serving wine and limited beer "on-sale." A physical bar is allowed and requires 20% food sales.
- Class Z Authorizes the licensee to sell "on-sale" only issued to individuals and partnerships not currently holding another "A", "AB", "ABH", or "ABH-RZ". This license is non-transferable.

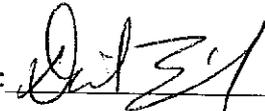
The following section to be completed by the applicant:

Initial #1 - #8 to indicate you understand and agree to these terms of the "Z", "W" or "B Limited" license. Then print your name and sign in the space provided below:

ALL APPLICANTS must initial #9 - #16 and sign in the space provided below.

1. DE My business may sell "On Sale" only (Class Z & W).
- 1a. _____ My business may sell "Off Sale" only; **NO** "On-Sale" liquor sales are permitted. ("B Limited)
2. DE This license shall only be issued to individuals or partnerships (natural persons only), corporations for liability purposes, except as otherwise provided hereinafter.
3. DE I may not obtain more than one "Z", "W" or "B Limited" license.
4. DE If I hold an "A", "B", "AB", "ABH or ABH-RZ" license, I may not obtain a "Z", "W" or "B Limited" license.
5. DE If I voluntarily go out of business, file a bankruptcy petition, become insolvent or otherwise cease business, the license reverts to the City of Fargo. This license may be transferred to reflect a change in location of your licensed premises.
6. DE The license may be transferred to my heirs (children only) during my lifetime. Upon my death, the license may be transferred to my heir(s), but may not be transferred to any other person, partnership, firm or corporation. If any partner in a partnership holding the license dies, the remaining partner(s) may continue to hold the license, but no partnership interest may be issued to any new partner. The ordinance will allow a partnership between the original licensee and his children which may take the form of a corporate entity under North Dakota law. Shares in the corporation may be transferred to the children, but transfer of shares to anyone else will constitute a sale that will cause the license to revert to the City of Fargo. As the ordinance indicates, the intent of this provision is to allow a transfer between a parent and children but a transfer of shares to anyone else is absolutely prohibited.
7. DE If I sell my business as a "going concern" (i.e., a complete and operational bar), the purchaser of the business has the first preference to purchase the "Z", "W" or "B Limited" license from the City. (The purchaser must meet all other relevant conditions and requirements for such a purchase.)
- 8a. _____ If I am issued a "B Limited" license, I must pay an initial fee for the license in the amount of \$80,000 and an annual fee for the license in the amount of the \$1,400 at the beginning of each license year.
- 8b. DE "Z" Initial \$105,000. Annual \$1,700.
- 8c. _____ "W" Initial \$25,000. Annual \$1,000.
9. DE All Applicants must assure there is adequate off-street parking for my business (within the discretion of-and as approved by-the City Commission). Membership in the current City parking program (e.g., "P.O.P.") may place me in compliance with this requirement.

- 10. DE I have received a copy of the Alcoholic Beverage Ordinance (s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
- 11. DE If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
- 12. DE I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
- 13. DE I understand that the premises described in this application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
- 14. DE I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages MUST attend Server Training.
- 15. DE I am familiar with the questions, answers and other information as it appears in the complete application for an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
- 16. DE I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44.04-21.1 concerning this claim of confidentiality under 44-04-18.4.

Applicant printed name: DAVID ERICKSON Signature: 

Applicant printed name: _____ Signature: _____

Applicant printed name: _____ Signature: _____

Business/Company name: FSP Associates LLC
Doing business as: Rivers Sports Bar

Business address (location): 4265 45 St S Suite 161
Mailing address: PO Box 870 Moorhead, MN 56500

Legal description of the premises to be licensed: _____
Lot 4 Block 1 Addition SHOPPES AT OSGOOD (THE)
*12/24/02 SPL/FR 3502-35000
*PLATTED (4/10/03 B-T1, P-48)
*SPL/F
R 3502-35010, 3502-05030 & 3502-40000
*REPLATTED FROM LT 1, BLK 1, OSGOOD TOWNSITE 1ST (10/26/2006, BV-1, P-112)
*11/1/06 SPL/FR 01-7001-00010-000
Does applicant wish to describe, depict, or other building which shall constitute the licensed premises in accordance with SECTION 23-1301, Subsection 8? Yes () No (X)

Is the premises now occupied by another business? Yes () No (X)

Type of business currently there: _____

Mailing address: _____
(address) (city) (state & zip)

Business e-mail address: _____

Phone number: () _____ Other number: () _____

Do you own or rent the property where the license will be used? Own () Rent (X)
If you rent, provide the following information:

_____ (name) (address) (city) (state & zip)

If you are the owner of the property, are there any delinquent taxes against the premises?
Yes () No () If "yes", in what amount? _____

Applicant Information:

Name: DAVID ERICK ERICKSON
(first) (middle) (last) (maiden name)

Address: 525 W. HAMPTON DR MOORHEAD MN, 56500
(address) (city) (state & zip)

How long have you lived at the address? 1 year

Provide your address history for the past 5 years: (Use additional page if necessary.)

From 5/2007 to 12/2008 Address: 523 Appletree Lane Moorhead, MN
From 6/2005 to 5/2007 Address: 1820 Tylehart Ave St. Paul, MN
From 6/2003 to 5/2005 Address: 326 48th Ave SW Moorhead, MN

E-mail address: derickson@southsidetap.com

Home phone number: (701) 866-2124 Other number: () _____

Date of Birth: 8/29/1984 Place of Birth: FARGO, ND

List each driver's license you have ever had and the state of issue:

DL#: Z736236468216 State of Issue: MN Dates: 09-2009 / 08-29-2013

DL#: Z736236468216 State of Issue: MN Dates: 08-2005 / 08-29-2009

DL#: E-625-135-234-673 State of Issue: MN Dates: 08-2002 / 08-29-2005

Has your driver's license ever been suspended or revoked? ___ Yes No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked? ___ Yes ___ No If "yes," where and when.

NA

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI should not be considered a "traffic offense"—and therefore must be listed) ___ Yes No If yes, provide the date of arrest, location, charge, and sentence or each conviction.

Have you been issued a citation for any alcohol-related offense? ___ Yes No If "yes," provide the date, location, and charge for each citation:

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

- Minnesota Liquor License

- Moorhead On-Sale Liquor License
- Minnesota Restaurant License

Have any of the above named licenses ever been suspended or revoked? ___ Yes No

If yes, list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7 years period: Use additional pages if necessary.)

From: 1/2008 to Present Business name: Dave's Southside Tap
Address: 203 Betsy Blvd, Moorhead Position/Title: Owner / General Manager

From: 4/2006 to 5/2007 Business name: The Complete Garage
Address: Hopkins, MN Position/Title: Salesperson / Intern

From: 6/2000 to 9/2005 Business name: Erickson Contracting
Address: Moorhead, MN Position/Title: Carpenter

From: _____ to _____ Business name: _____

Address: _____ Position/Title: _____

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages? Yes ___ No If "yes," list each business below:

Dave's Southside Tap; Moorhead, MN

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level? ___ Yes No If "yes," indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol? Yes ___ No If "yes," describe below:

General Manager and Owner of Dave's Southside Tap

Partnership/Corporation Information (ALL Partners, Corporate Shareholders and Directors holding 5% or more of the outstanding stock must be listed—make copies and use additional pages as needed)

List your business structure: LLC (Partnership, Corporation, LLP, LLC)
(This section may be copied and pages attached for additional partners.)

Name: DAVID ERICK ERICKSON
(first) (middle) (last) (maiden name)

Address: 525 W. Hampton Dr. Marhead MN, 56560
(address) (city) (state & zip)

How long have you lived at the address? 1 year

Provide your address history for the past 5 years: (Use additional page if necessary.)

From 5/2007 to 12/2008 Address: 523 Applebee Lane Marhead, MN

From 6/2005 to 5/2007 Address: 1820 Tylehart Ave St. Paul, MN

From 6/2003 to 5/2005 Address: 326 48th Ave SW Marhead, MN

E-mail address: _____

Home phone number: (701) 866-2124 Other number: () _____

Date of Birth: 8/29/1984 Place of Birth: FARGO, ND

List each driver's license you have ever had and the state of issue:

DL#: 2736236468216 State of Issue: MN Dates: 09-2009 / 8-29-2013

DL#: 2736236468216 State of Issue: MN Dates: 08-2005 / 8-29-2009

DL#: E-625-135-231-673 State of Issue: MN Dates: 08-2002 / 8-29-2005

Has your driver's license ever been suspended or revoked? ___ Yes X No If "yes", where and when.

If "yes," have you ever been issued a citation for driving after you license was suspended or revoked? ___ Yes ___ No If "yes", where and when?

N/A

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense"—and therefore must be listed) Yes X No If yes, provide the date of arrest, location, charge, and sentence for each conviction:

Have you been issued a citation for any alcohol-related offense? Yes X No If "yes," provide the date, location, and charge for each citation:

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

- MN Liquor License
- Moorhead On-Sale License
- Minnesota Restaurant License

Have any of the above named licenses ever been suspended or revoked? Yes X No If yes, list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7 year's period: (Use additional pages if necessary.)

From: 1/2008 to Present Business name: Dave's Southside Tap
 Address: 803 Belsky Blvd Moorhead, MN Position/Title: Owner/General Manager

From: 4/2006 to 5/2007 Business name: The Complete Garage LLC
 Address: Hopkins, MN Position/Title: Salesperson/Intern

From: 6/2009 to 9/2005 Business name: Ericksen Contracting
 Address: Moorhead, MN Position/Title: Carpenter

From: to Business name:
 Address: Position/Title:

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages? X Yes No If "yes," list each business below:

Dave's Southside Tap, Moorhead, MN

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level? Yes No If "yes," indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol? Yes No If "yes," describe below:

General Manager + Owner of DAVE'S Southside TAP

Are all officers, directors, and shareholders holding more than 5% of the outstanding stock 21 years of age or older? Yes No

Address of Home Office 4553 9th Ave S. STE B FARCO, ND 5810
Date Incorporated 11-24-09 State of Incorporation ND

If a subsidiary of any corporation, state name and address of parent corporation _____

Operator/Manager Information

Are you going to operate this business personally? Yes No If "no", who will operate it?

Name: David Erick Erickson
(first) (middle) (last) (maiden name)

Address: 525 W. HAMPTON DR. Marhead, MN 56560
(address) (city) (state & zip)

Home phone number: (701) 866-2124 Other number: ()

Date of Birth: 8/29/84 Place of Birth: FARGO, ND

Are you going to have a manager or assistant in this business? Yes No If the manager is not the same as the operator, provide the following manager information:

Name: _____
(first) (middle) (city) (maiden name)

Address: _____
(address) (city) (state & zip)

Home phone number: () Other number: ()

Date of Birth: _____ Place of Birth: _____

(Important: The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

Business Site Plan

On the following page (or on attached pages if additional space is needed), provide a detailed diagram and description of the design, location, and square footage of the premises to be licensed.

- * The scale should be state, such as 1"=20'. The direction N should be indicated towards the top.
- * The diagram should include placement of all pertinent features of the interior of the licensed premises, such as seating areas, kitchens, offices, repair areas, restrooms, etc. The exterior parking area should also be shown.

Included In Packet. Exact Design still being determined.

(This page for business site plan)

Operational and Financial Issues

Briefly describe your business concept, including your analysis of how this model fits into the proposed location (i.e., describe the suitability of the "fit" into the existing neighborhood or business area). (Use additional pages if necessary.)

Rivals Sports BAR will provide those living in the area a simple Sports BAR themed neighborhood bar. The bar will be relatively modest in size and provide Beer, Liquor, wine, Burgers, sandwiches, gambling, pool, sports, and of course fun in a comfortable relaxing atmosphere.

Describe in detail how you intend to address/prevent each of the following concerns at your Business (use additional pages if necessary):

Over-serving, intoxicated or disorderly patrons:

All bartenders and servers will be required to complete the server training course held by the Community Coalition. This training will help in knowing when to cut off customers and help them get home.

Safety and security issues, including crowd control:

Rivals won't be really big so there will never be gigantic crowds however all customers will be ~~Identified~~ a door person will be on duty during Fridays and Saturdays.

Minors on the premises, including consumption by minors:

Like previously mentioned all serving staff will take the Server Training Seminar, This will assist them in identifying fake Id's. Also only persons 21 and older will be allowed at Rivals.

Noise concerns, especially from nearby residences of other businesses:

loud music and outdoor music won't be used at the Bar.

Do you plan to feature live entertainment? ___ Yes No If "yes," describe what you envision at this time, including how often such entertainment will take place?

What is your total **business** indebtedness for this entity, excluding lease costs? 350,000

Does any one creditor represent more than 10% of that sum? Yes ___ No If "yes," list each creditor below. (Total must equal 100%)

<u>Name</u>	<u>Address</u>	<u>Phone#</u>	<u>%Owed</u>
<u>State Bank Trust</u>	<u>1333 8th St. S.</u>	<u>218-233-3107</u>	<u>100%</u>
_____	_____	_____	_____
_____	_____	_____	_____

Have you ever filed a petition of bankruptcy? ___ Yes No If "yes," when and what were the circumstances?

Please list at least three business references:

<u>Name</u>	<u>Address</u>	<u>Phone</u>
<u>DS Beverage</u>	<u>201 17th St. N. Moorhead</u>	<u>218-233-1343</u>
<u>Bergseth Bros.</u>	<u>501 23rd St. N. Fargo</u>	<u>701-232-8818</u>
<u>Sysco Foods</u>	<u>3225 12th Ave. N. Fargo</u>	<u>701-293-8900</u>

Is application for a motel or hotel with 100 or more guest rooms?
Yes (); No ;

Is application for a lodge or club? Yes (); No .

If yes, number of members in good standing _____

Date of organization incorporation 11-24-2009

If applicant is a CORPORATION or LLC, complete this portion:

STATE OF NORTH DAKOTA)
)ss.
County of Cass)

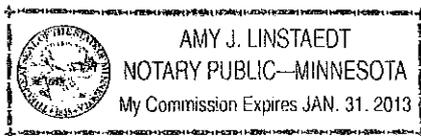
DAVID ERICKSON and DAVID ERICKSON do hereby swear that they are the President and Secretary, respectively of Corporation which is the Applicant named above; that they have read the application and know the contents thereof; that the information contained and offered therein is true and correct to the best of their knowledge.

(Corporate Seal)

FSB Associates
Name of Corporation
[Signature]
President's Signature

Secretary's Signature

Subscribed and Sworn before me this 2 day of December, 2009



(Seal)

[Signature]
Notary Public, Cass County North Dakota

My commission Expires: Jan 31, 2013

Rivalry Sports Bar

I. Executive Summary

With many new businesses and area residents being attracted to the Osgood area, Rivals Sports Bar will provide those that work, reside, or shop in the area a local neighborhood bar atmosphere where they will be able eat, drink, gamble, socialize, and watch a game. As people in Fargo continue to move south of 32nd Ave, more and more people are being attracted to the convenience of shopping, eating, banking, and drinking near the same area that they live. By being one of the few on-sale liquor establishments in the area, Rivals Sports Bar will be able to provide those that live near the Shoppes at Osgood an on-sale liquor establishment that they can call their own.

Rivals Sports Bar is expected to have a maximum indoor capacity of 140 customers and an outdoor capacity of 20 during the summer months. With this capacity Rivals Sports Bar expects to serve 100 customers a day with each customer spending an average of \$15, totaling \$1500 in sales per day on food, beer, and drinks. With this figure Rivals Sports Bar expects to be debt free at the latest by year seven of operation.

Unlike some start up ventures Rivals Sports Bar will be both owned and operated by one person, David Erickson, and will be legally recorded as a Limited Liability Company as FSB Associates, ULC. As owner/manager David Erickson will be responsible for all employees and business activities that occur inside the bars premises.

II. Introduction

Rivals Sports Bar will be located in the Shoppes at Osgood which is northwest of the 15th St. and 46th Ave intersection. Other businesses that are current tenants in the same building facing 45th St. include Hornbacher's, Lakeview Liquors, Video Vault, Extreme Fun, a dentist office, a veterinary office and others. Stand alone businesses located east of the strip mall parking lot are along 45th St. include Alerus Financial, Dairy Queen, and a Hornbacher's gas station. With lots of new homes in the area and location the amount of commercial and residential traffic can only increase bringing more awareness to The Shoppes at Osgood and more importantly Rivals Sports Bar.

Rivals Sports Bar will primarily target adults ages 25 and older who live or work in the Osgood area. With many single family homes and apartment complexes located in the immediate area, Rivals Sports Bar has access to hundreds of target market customers living in the area. Also with the businesses mentioned earlier thousands of people are already frequenting the area on a weekly basis for all sorts of different purposes.

Like the previous bar started by the area's former Rivals Sports Bar will provide a neighborhood sports bar atmosphere that people can call their own.

Rivals Sports Bar will serve a variety of different tap and bottled beers along with many different liquor choices, a small wine menu, and food. Besides being able to earn revenue through sales of these products Rivals Sports Bar will also receive business and cash compensation from gambling, gaming areas, atm machines, and other merchandise that will be available.

III. Industry Overview

The on-sale liquor business in Fargo is uniquely setup creating many barriers to enter the market. This setup however allows the city of Fargo to control the supply of liquor establishments inside its city limits. This control over the quantity of liquor licenses issued provides protection for on-sale liquor establishments from over saturating the market with too many options. With limits on the amount of locations serving alcohol there becomes more competition in attracting consistent traffic. This becomes especially true when you consider the high start up fees.

The change in seasons is the most common reason for changes in sales. Since many people that live in Fargo also enjoy the lakes area during the summer, sales are usually lowest between June and August. Come September however sales generally start to rise peaking between December and March. This pattern is especially true for sports bars considering the different sport seasons throughout the year. The alcohol industry in Fargo overall is thriving; there is a large population of people that consume beer, liquor, or wine on weekly basis. This makes convincing these people to consume drinks and dinner outside of their homes and location as the number one priorities for those competing in the industry.

IV. Competitive Landscape

There are several different restaurants and bars in the Fargo-Moorhead community that serve on-sale liquor. Listed below are some in same vicinity as the proposed location for Rivals Sports Bar.

Divots

Located in the club house of the Osgood Golf Course, Divots, is an obvious destination for golfers after playing. Divot's has a relatively large food menu along with beer, liquor, and wine selections. Even though Divots is able to generate business through people not golfing, it is primarily a golf course bar.

Hooligans

Located in West Fargo Hooligans is a large sized bar that caters to a younger crowd interested in motorcycles, UFC fighting, and loud rock music. Friday nights usually feature live music and mostly every night week features some sort of drink special. Hooligans caters to a little bit younger crowd than the main crowd Rivals Sports Bar would be advertising too, but does attract

people of the same demographic. Hooligans would be considered a main competitor however is different in many areas then those the plans proposed for Rivals Sports Bar

Mexican Village

Mexican Village is located near the UP Center, at the intersection of 32nd Ave. and 45 St. Primarily a restaurant, Mexican Village offers Mexican and American Food along with beer, liquor, and wine. People of all ages can enter the restaurant area of the building but you must be 21 to enter the bar area. The bar area at Mexican Village is relatively big and open where most wait before being seated or are both eating and drinking. Very few people just drink at Mexican Village on a regular basis.

Windbreak

The Windbreak is located in the Flying J Truck Center near I-29, on 32nd Ave. Being located in a Truck Center, The Windbreak is a drinking person's bar. Most nights have really cheap drink specials, live music (rock & country), and a mixture of people from the FM or those just passing through. The Windbreak offers a full food menu along with beer, liquor and the convenience to other goods and services by being connected to a cafe and gas station. The Windbreak provides an entirely different drinking atmosphere than that proposed for Rivals Sports Bar.

Woody's

Even though Woody's is over five miles away from the desired location, it is the most similar atmosphere to the one being proposed for Rivals Sports Bar. Woody's provides a full food menu from 11am-11pm along with beer, liquor, and wine until 2am. Even though Woody's is popular it does have a reputation of being a dive and unorganized setting. There are lots of TVs in the bar and seating area, however it doesn't feel entirely like a "sports bar."

V. Market Entry Strategy

Due to a cap placed on the amount of liquor licenses available that have food revenue less than 50% of total revenue, entering the on-sale beer and liquor business in Fargo is difficult. On-sale liquor licenses in Fargo for businesses having food revenue less than 50% of total revenue act as a piece of property that can be bought and sold at the will of two parties. With this limited supply of on-sale liquor licenses, most are currently being sold for between \$250,000 and \$300,000 if a buyer is able to find an actual willing seller. To decrease the inflation of these liquor license costs, the City of Fargo created four unique on-sale liquor licenses labeled as Class "Z" licenses. Class "Z" liquor licenses have many similarities and some differences when compared to a standard on-sale liquor license (Class "A") in the city of Fargo.

With being able to enter the on-sale liquor market through a Class "Z" liquor license Rivals Sports Bar in the The Shoppes at Osgood will be able to supply the demand for a neighborhood bar atmosphere in the Osgood area of Fargo. The growth and development of Rivals Sports Bar will be based on the ideology of simple is better. Rivals Sports Bar will provide many beer, liquor, and wine choices as well as a food menu that provides terrific appetizer and sandwich selections in a comfortable sports bar related atmosphere. Although there are several on-sale liquor license establishments south of I-94 in Fargo or West Fargo only two (Woody's and Hooligan's) provide bar atmosphere where alcohol sales are the number one priority. Rivals Sports Bar feels it will be able to fill this void and enter the Fargo on-sale liquor market successfully as long as it stays the course of simple is better.

VI. Marketing and Advertising Tactics

Rivals Sports Bar will try several different types of advertising outlets to attract initial awareness and attention. Since the primary target market is anyone over the age of 21 in the Fargo and West Fargo areas south of I-94 this is where Rivals Sports Bar will work hardest at receiving a good reputation for a place to eat and drink. Items such as direct mailings, email marketing, radio, billboards, and more will be mixed and used accordingly to whichever is receiving the most success.

Another way for Rivals Sports Bar to attract attention and better yet loyal customers is through sponsoring different events and teams in the local area. During the winter months sponsorship donations will be given to several different hockey, flag football, and volleyball teams with the idea that these teams will come drink, eat, and socialize at the bar afterwards. During the summer months most attention will be focused towards softball and golf. With a lot of softball diamonds just a couple miles away, Rivals Sports Bar will sponsor several teams in the summer to continue to try to attract loyal customers and more awareness of its location.

Rivals Sports Bar also wants to advertise to the other businesses in the area to try to attract their employees to visit the bar. This will be accomplished through directly going door to door at these businesses and promoting Rivals Sports Bar by giving drink tickets and other items to create an initial awareness of the bar and to hopefully receive these people's business in the future.

Rivals Sports Bar will also use traditional bar advertising techniques by using exterior signs to promote various food and drink specials. These different specials will vary from month to month to further generate more traffic and business.

VII. Production Tactics

Employees

Day to day operation activities will be managed by Rivals Sports Bar owner/manager. Responsibilities for the manager will include everything from managing inventory and employee training to janitorial duties. Along with a manager there will also be approximately 15-18 bartenders and servers and also 3 kitchen staff members. These employees will be hired on previous work experience and be expected to be flexible with the jobs they are asked to do on a daily basis. On most Sunday-Wednesday evenings there will be 1 bartender and 2 servers on duty at all times, while there will be 2 bartenders and 3 servers Thursday-Saturday. It will be expected that the kitchen will need only 1 or 2 employees during all grill hours.

Liquor/Beer

The manager will be required to control inventory of different suppliers. There will be 4-5 beer and liquor distributors whom Rivals Sports Bar will work with. Inventory will be managed by not allowing any empty bottles to be thrown in the trash and an inventory count will be conducted on the 15th and 30th of every month to help manage an accurate monthly inventory count and to prevent employee theft. There will be one beverage distributor, ideally Coca Cola located in Moorhead that will supply nonalcoholic beverages for Rivals Sports Bar. Other supplies that will be required such as condiments, napkins, straws, etc. will be ordered through Sysco and Dakota Paper.

Food

There will be a very simple yet tasty food menu available at Rivals Sports Bar. There will be several different appetizer and pizza selections available for people looking to snack. Those looking for something more filling will be able to choose from a variety of different burger sandwich baskets. Since the kitchen will usually have only one person on duty most items will either need to be able to be cooked on the flattop griddle or fried in the deep fryer. A limited amount of ingredients will be needed since most will be interchangeable depending on the menu being served.

Security

In order to provide safety for both customers and staff, Rivals Sports Bar will install a security system that will include video camera recordings inside the building. The exact security system that will be installed is still undecided but will include at least two video cameras, one to monitor the back bar area and another to help monitor the seating areas.

Although it is not expected that a bouncer will be necessary, all employees will be expected to have passed an alcohol serving course provided by the FM Safer Community Coalition to ensure employees are properly educated about current alcohol laws and regulations. Employees will also be provided

education concerning disruptive customers and other matters that may occur while working at an on-sale liquor establishment. Security is an important matter for Rivals Sports Bar and won't be taken lightly to ensure all customers and employees feel comfortable and safe inside the premises.

Smoking

With the City of Fargo recently passing a citywide ban of smoking indoors, anyone wanting to smoke will be required to do so outdoors. People wishing to smoke will be allowed to do so in front of the bar in the outdoor seating area.

VIII. Product and Service Support Tactics

Rivals Sports Bar will use three different distributors for beer products. These companies are D-S Beverages, Bergseth Brothers, and Beverage Wholesalers. Considering the difficulty of predicting inventory turnover, most beer companies provide an initial two weeks of unlimited delivery to help determine future delivery schedules. After these two weeks it is expected that each company will deliver product to the bar once or twice a week. Liquor and Wine will be primarily distributed by Johnson Brothers and Wirtz Beverage, which are both located in St. Paul, Minnesota. There is a regional sales member for this part of the state and details of products and delivery schedules will be determined at a later date.

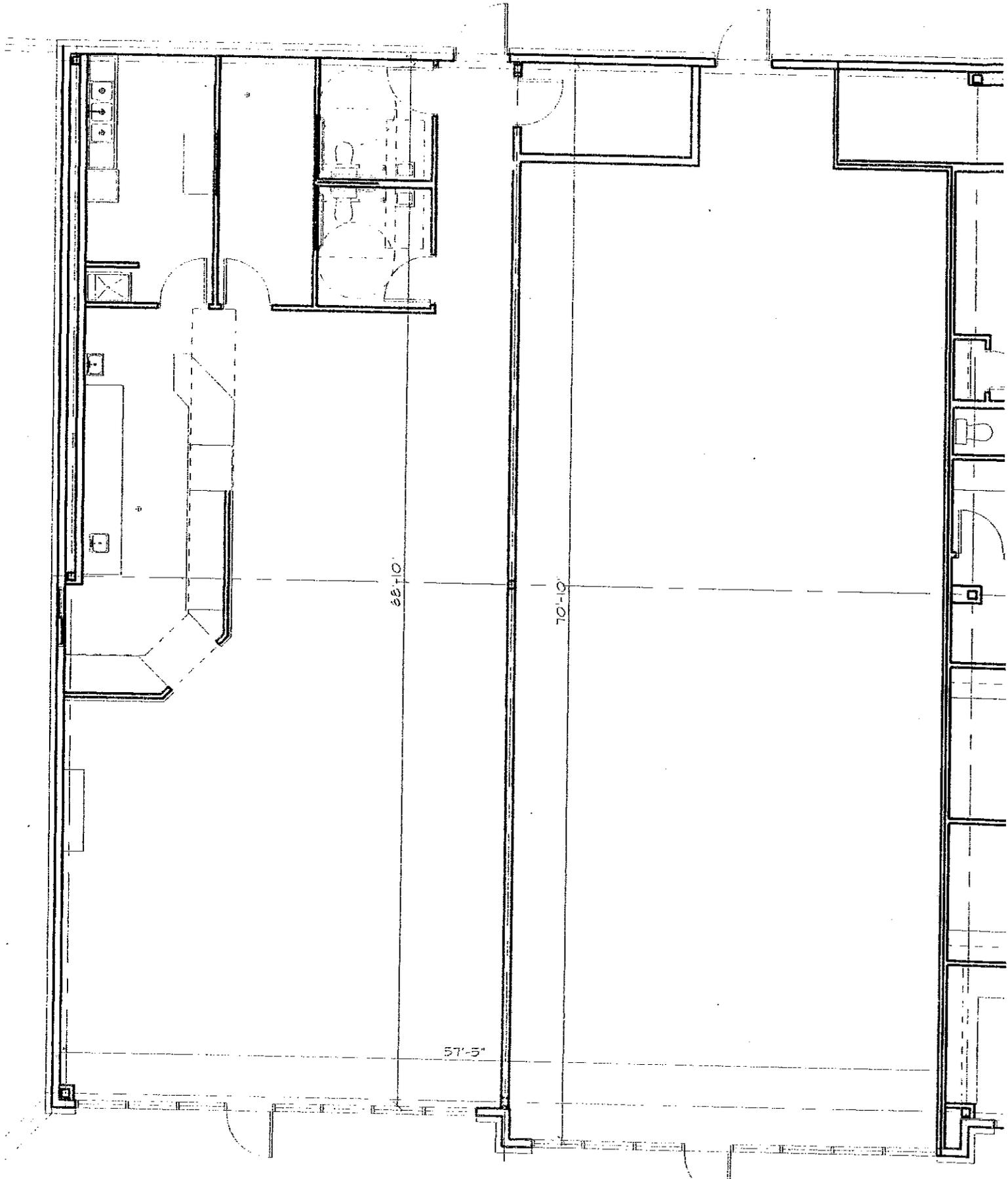
Most food products that will be served at Rivals Sports Bar will be distributed by Sysco Foods. It will be expected that Sysco will deliver once or twice a week depending on the previous week's business activity. Most menu items will use many of the same food products, helping limit the amount of inventory required and also the amount of spoilage. Besides Sysco, Rivals Sports Bar will also use Pizza Corner for frozen pizzas which will be available during all business hours. Pizza Corner will provide Rivals Sports Bar with the necessary cooking equipment however it is Rivals Sports Bar's responsibility to provide adequate freezer space.

Non alcoholic beverages will most likely be distributed by Coca Cola and Roaring Lion Energy Drink Company. Located in Moorhead, MN Coca Cola's distribution center will provide Rivals Sports Bar with ice bins, soda guns, glasses, bag in the box shelving, and pos items at no cost. Roaring Lion Energy Drink is unique from its competitors by being able to serve energy drinks through a soda gun system. Both companies are located in the FM area and similar to most of the distributors being used are current customers of the potential owner's other bar Dave's Southside Tap. By having two locations the ownership group will use more product and therefore be in a better position to receive better prices, service, and support.

IX. Budget, Uses of Funds, Sources of Funds and Deal Structure

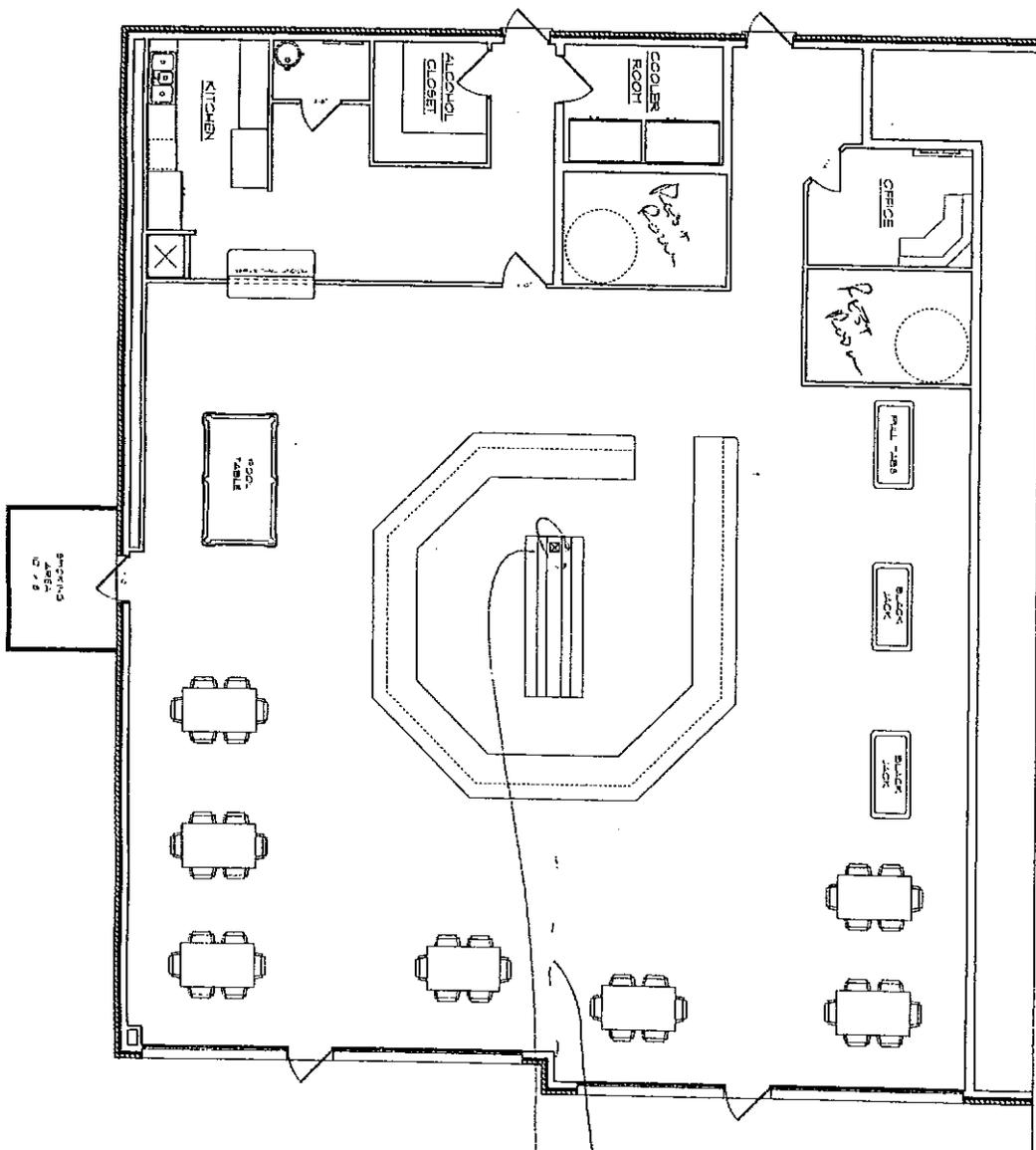
Further details of financial information can be provided if needed during the application process.

X. Pro forma Assumptions



Riviera Sports Bar

NEW FLOOR PLAN



PRELIMINARY DRAWINGS
NOT USED FOR
CONSTRUCTION

WALL REMOVED
EXCEPT FOR
SUPPORT POST

SCALE: 1/4" = 1'-0" DRAWN BY: NDJ CHECKED BY: NDJ	DATE: DEC. 13, 09	DAVE'S BAR & GRILL 8, FARGO, ND	ERICKSON CONTRACTING MOORHEAD, MN 218-236-8096	PRECISION DRAFTING & DESIGN LLC 1915 21TH STREET SOUTH MOORHEAD, MN 56560 218-287-0099
	REV 2 XXX XX XX	REV 2 XXX XX XX		
	REV 3 XXX XX XX	REV 3 XXX XX XX		



Office of the City Attorney

January 21, 2010

City Attorney
Erik R. Johnson
Assistant City Attorney
Robert L. "Butch" McConn, Jr.

City Commissioners
City of Fargo
200 North Third Street
Fargo, ND 58102

City Prosecutors
Scott O. Diamond
Jodi A. Bass

Re: Amendment of ordinance -- Declaration of State of Emergency
(F.M.C. §10-0318)

Dear Commissioners:

You may recall that last spring during the 2009 flood event you approved some amending language to Section 10-0318 of the Fargo Municipal Code. See enclosed Ordinance No. 4702. Since that time, it would seem appropriate to give further thought to the types of powers and the method of implementation of such a mayoral declaration to clarify or modify the following:

1. The process for the mayoral declaration and extension of emergency declaration.
2. To address the limiting of hours of operation of businesses during an emergency.

We have been conferring with the city engineer's staff regarding their experiences with last spring's flood fight. We intend to also confer with the city administrator to consider other areas where emergency powers are important.

SUGGESTED MOTION: I move to direct the City Attorney's office to confer with the City Administrator and other appropriate city departments and prepare appropriate amendments to Fargo's state of emergency or disaster ordinance.

Sincerely,

Erik R. Johnson

ERJ/jmf
Enclosure

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4702

AN ORDINANCE AMENDING SECTION 10-0318
OF ARTICLE 10-03 OF CHAPTER 10 OF THE FARGO MUNICIPAL CODE
RELATING TO BREACHES OF PEACE AND ORDER

1
2
3 WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in
accordance with Chapter 40-05.1 of the North Dakota Century Code; and,

4
5 WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that
the City shall have the right to implement home rule powers by ordinance; and,

6
7 WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that
said home rule charter and any ordinances made pursuant thereto shall supersede state
laws in conflict therewith and shall be liberally construed for such purposes; and,

8
9 WHEREAS, the Board of City Commissioners deems it necessary and
appropriate to implement revisions to the City of Fargo ordinances by the adoption of this
10 ordinance;

11 NOW, THEREFORE, Be It Ordained by the Board of City Commissioners of the
City of Fargo:

12
13 Section 1. Amendment.

14 Section 10-0318 of Article 10-03 of Chapter 10 of the Fargo Municipal Code is
amended to read as follows:

15 10-0318. State of emergency--[Declaration and duration].--

16 A. The president of the city commission or commissioner acting for the
17 president, is authorized, if he finds that the city or any part thereof is
18 suffering or is in imminent danger of suffering civil disturbance,
disorder, riot or other occurrence, including danger of flooding of the
19 city, or any part of the city, which will seriously and substantially
20 endanger the health, safety and property of the citizens, to declare a
STATE OF EMERGENCY and take the following specified
measures throughout the city or any part thereof; the declaration shall
be made in a proclamation which shall be delivered to the chief of
police, who shall then see that said proclamation is delivered to the
news media within the city and who shall use public address systems
throughout the city, electronic notification systems or other means

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4702

1 deemed appropriate by the chief of police and immediately notify the
2 public of said proclamation and warn the public that any violation
3 shall be deemed a misdemeanor and violators will be arrested.

- 4 1. Require evacuation of all or any portion of the city.
5 The chief of police shall have the authority to order
6 the evacuation of residential or commercial buildings
7 or other structures whenever, in the opinion of the
8 chief of police, it is necessary in order to maintain the
9 peace or to protect the health, safety or property of
10 the city or its citizens from the danger for which the
11 state of emergency was declared.
- 12 2. Prohibit or limit the number of persons who wmay
13 gather or congregate upon the public highways or
14 public sidewalks, or in any outdoor place, except
15 persons who are awaiting transportation, engaging in
16 recreational activities at a usual and customary place,
17 or peaceably entering or leaving buildings.
- 18 3. Halt access or exit upon public highways to or from
19 the city or any part thereof.
- 20 4. Suspend operations at municipal airport.
- 21 5. Halt the movement of trains, or other vehicles into,
22 within, or from the city.
- 23 6. Establish a curfew limiting the hours when persons
may go upon or travel the public streets, sidewalks or
other public rights of way.
7. Require the closing of taprooms and bars and prohibit
the sale or service of alcoholic beverages in any hotel,
restaurant, club or other establishment.
8. Prohibit the sale of gasoline or other flammable
liquids.
9. Prohibit the sale, carrying or possession on the public
sidewalks or public streets, or in any public park, of
weapons including, but not limited to, firearms, bows
and arrows, air rifles, slingshots, knives, razors, or
missiles of any kind.
10. The city engineer shall have the authority to go upon
the property of another to establish a temporary flood
control dike of earthen or other material whenever, in
the opinion of the city engineer, it is necessary in
order to maintain or protect the health, safety or

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4702

property of the city or citizens from flooding or the effects of flooding. In forming such opinion, the city engineer may consider the effect that floodwaters would have upon the city's system of storm or sanitary sewers, or upon other of the city's infrastructure system.

101. The chief of police shall have the authority to close any and all streets, alleys and other public ways in the city of Fargo to the public whenever, in the opinion of the chief of police, it is necessary in order to maintain the peace of the community.

112. Every person remaining present at the place of any riot or unlawful assembly after the same has been ordered to disperse by the police or any other lawful authority, except the public officers and persons assisting them in the dispersing of same, shall be guilty of a misdemeanor.

B. Duration. The STATE OF EMERGENCY declared by the president of the city commission shall exist for the period set forth in the proclamation but not in excess of two weeks. However, the STATE OF EMERGENCY may be extended for additional periods of two weeks.

Section 2. Effective Date.

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



Dennis R. Walaker, Mayor

(SEAL)

Attest:


Steven Sprague, City Auditor

First Reading: 03-23-2009
Second Reading: 04-06-2009
Final Passage: 04-06-2009

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