



# City of Flandreau City Council Meeting

## Agenda

**6:30 p.m., Monday  
May 11<sup>th</sup>, 2020**  
Via Zoom Meeting  
1005 W. Elm Avenue  
Flandreau, SD

**Meeting called by:** Mayor Bonrud

**Type of meeting:** Special

### Agenda topics

Pledge of Allegiance

Mayor Bonrud

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**Adopt Agenda**

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First Reading of Ordinance No. 597, An Ordinance that Amends Existing Title 1 Administrative Code

10

First Reading of Ordinance No. 598, An Ordinance that Amends Existing Title 5 Public and Private Nuisances

15

Report on Cost Projections for Repair/Replacement/Demolition of Crescent Street Bridge and Determination of Project to Submit to SDDOT for Grant Funding

15

Determination on Opening Flandreau Aquatic Center for Summer

**Special notes:** Other business properly referred to the City Council.

**Distribution:**

Mayor Bonrud  
Alderman Bjerke  
Alderman Pesall  
Alderman Sutton  
Alderman Tufty  
Alderman Unger  
Alderman Whitman

Cc:

Newspaper: Moody County Enterprise  
Radio: Carol Kiecksee  
City Attorney: Corey Bruning

To Join the Zoom Meeting:

<https://us02web.zoom.us/j/2106882313?pwd=UG1wM1BCYXlmMUZFT0NHQVNITHFsQT09>

Meeting ID: 210 688 2313

Password: COF@2492!

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+12532158782,,2106882313#,,1#,229251# US (Tacoma)

## Agenda Action Form Flandreau City Council

Meeting Date: 5/11/2020

**Title:** Ordinance No. 597-Amends Existing Title 1 Administrative Code and Ordinance No. 598-Amends Existing Title 5 Public and Private Nuisances

Motion       Resolution       Ordinance       Other

**Background Information:** On November 18, 2019, the Flandreau City Council took action to accept the Report of the Property Maintenance Code Review Task Force. Within that Report were a number of recommendations for changes to City Ordinances. Those recommendations have been put in to form by the City Attorney for inclusion in the City's Code of Ordinances. There are two Ordinances brought forward. Ordinance No. 597 increases the fine for violations from \$200 per instance to \$500 per instance. Ordinance No. 598 contains a handful of revisions to definitions, declarations, and Title structure in accordance with the recommendations of the Task Force. It also contains the Task Force recommendation to adopt the International Property Maintenance Code by reference.

**Justification:** The Ordinance revisions are necessary in order to implement the recommended changes found in the Task Force Report.

**Financial Consideration:** None

**City Administrator's Recommendation:** Approval

**Attachments:** Proposed Ordinance No. 597, Proposed Ordinance No. 598, Report of the Flandreau Property Maintenance Code Task Force.

ORDINANCE NO. 597

AN ORDINANCE THAT AMENDS EXISTING TITLE 1 ADMINISTRATIVE CODE

BE IT ORDAINED BY THE MUNICIPALITY OF FLANDREAU, MOODY COUNTY, SOUTH DAKOTA, THAT SECTION 1.1.6 OF TITLE 1 BE AMENDED TO READ AS FOLLOWS:

Section 1.1.6.Misdemeanor. Except as in this Ordinance otherwise specifically or additionally provided, any person or persons, firm, or corporation, violating any of the provisions thereof, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding **\$500.00**, or imprisonment in jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment. The fine may be served in jail at the rate equal to the rate provided for by State law. Each act of a violation and each day upon which a violation occurs shall constitute a separate offense for which a penalty can be imposed.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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Mark R. Bonrud  
Mayor

First Reading:            May 11<sup>th</sup>, 2020  
Second Reading:  
Published:

ATTEST:

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Jeff Pederson  
City Administrator

(SEAL)

ORDINANCE NO. 598

AN ORDINANCE THAT AMENDS EXISTING TITLE 5 PUBLIC AND PRIVATE NUISANCES.

BE IT ORDAINED BY THE MUNICIPALITY OF FLANDREAU, MOODY COUNTY, SOUTH DAKOTA, THAT TITLE 5, SECTION 5.1(h) BE AMENDED TO READ AS FOLLOWS:

**Chapter 5.1 Definitions.**

h. *"Inoperable vehicle"* – All vehicles must be both operational and properly licensed. Any vehicle which is not in operating condition due to damage, removal or inoperability of one or more tires, wheels, the engine or other essential parts required for the operation of the vehicle, or which does not have lawfully affixed thereto a valid state license plate, or which constitutes an immediate health, safety, and fire or traffic hazard is considered an "inoperable vehicle."

BE IT FURTHER ORDAINED THAT TITLE 5, SECTION 5.2.9 COMPLAINTS BE AMENDED TO READ AS FOLLOWS:

**Section 5.2.9. Complaints.**

In enforcing this Title, priority will be given on the following basis:

- a. Proactive code enforcement by a duly-authorized employee or agent of the City, including the Police Department;
- b. At the request of the City Council;
- c. Receipt of a formal complaint filed by any resident, property owner or occupant.

BE IT FURTHER ORDAINED THAT TITLE 5 BE AMENDED TO ADD A NEW SECTION 5.2.10 THAT READS AS FOLLOWS:

**Section 5.2.10 Ordinances not to be construed to prevent properly-zoned business**

While the nuisance ordinances apply to all zones, these ordinances should not be construed to prevent the necessary activities of a primary line of business (as shown by NAICS / SIC codes and Sales tax receipts) of a properly-zoned business, provided the usage is reasonable in scope and duration. For example, if an auto repair business is zoned industrial, it is understood that some of the vehicles on that property may be inoperable for certain periods of time. Provided that the quantity of vehicles, duration, and other accommodations are reasonable, this should not be construed to be a violation.

BE IT FURTHER ORDAINED THAT TITLE 5 BE AMENDED TO ADD A NEW SECTION 5.2.11 THAT READS AS FOLLOWS:

**Section 5.2.11 Adoption of International Property Maintenance Code.** The City of Flandreau, in order to augment, supplement, and complement its Ordinances, hereby adopts and incorporates by reference, for the purpose of establishing minimum requirements for the maintenance of existing buildings, that certain code known as the International Property Maintenance Code (hereafter "IPMC"), recommended by the International Code Council, being particularly the 2018

edition thereof and the whole thereof save and except such portions as are hereinafter deleted, modified or amended. Not less than two (2) copies of the IPMC have been and now are filed in the office of the City Finance Officer of the City of Flandreau. As the IPMC is intended to augment, supplement, and compliment, the IPMC is incorporated as fully as if set out at length herein only whenever the IPMC does not conflict with City Ordinance or South Dakota Codified Law. From the date on which this Ordinance shall take effect, the provisions thereof shall be controlling within the limits of the City of Flandreau.

BE IT FURTHER ORDAINED THAT TITLE 5, SECTION 5.3.1 BE AMENDED TO ADD A NEW SUBSECTION (q) THAT READS AS FOLLOWS:

**Section 5.3.1. Enumeration.**

q. Inoperable Vehicles. Any vehicle that meets the definition of “inoperable vehicle” shall not be kept longer than forty-eight (48) hours, except in an appropriate enclosed structure or accessory structure. An authorized employee or agent of the City may demand a vehicle suspected of being inoperable be driven a distance of a quarter mile (approximately around one square block in town) in the presence of an authorized employee or agent of the City to demonstrate operability within one week of notice, at a mutually acceptable time. Failure of the owner to comply will be presumptive proof of inoperability.

BE IT FURTHER ORDAINED THAT TITLE 5, SECTION 5.3.2.4(b) BE AMENDED TO READ AS FOLLOWS:

**Article 5.3.2.4. Declared nuisance**

b. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, that are not maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, which are not protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint which have not been eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, which have not been maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion which have not been coated to inhibit such rust and corrosion, and surfaces with rust or corrosion that have not been stabilized and coated to inhibit future rust and corrosion.

BE IT FINALLY ORDAINED THAT TITLE 5, SECTION 5.3.2.4(c) BE AMENDED TO READ AS FOLLOWS:

c. Windows, skylights, doors and frames not kept in sound condition, good repair and weather tight. Glazing materials not maintained free from cracks and holes. Windows, other than a fixed window, not easily openable and capable of being held in position by window hardware.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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Mark R. Bonrud  
Mayor

First Reading:            May 11<sup>th</sup>, 2020  
Second Reading:  
Published:

ATTEST:

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Jeff Pederson  
City Administrator

(SEAL)

## **REPORT OF THE FLANDREAU PROPERTY MAINTENANCE CODE TASK FORCE**

Virtually all cities and towns in the United States have in place a set of ordinances that aim to maintain a certain standard for the maintenance of private property in the respective community. The existence of such ordinances or “codes” reflect the standards that a particular community desires for the condition or appearance of personal property be it structures or grounds. In a nutshell, the community standards that codes seek to achieve or maintain take precedence over the individual rights of property owners to maintain their property to any personal standard that they determine to be desirable.

Community standards combine to reflect the “public interest” with respect to the desired level of property maintenance in a particular community. Certain values underlie those standards, foremost amongst which are orderliness, safety, image, and impact upon the value of nearby properties. When property maintenance in a community or an area of a community falls below the desired standard, problems in the aforementioned value-areas develop.

The City of Flandreau has a fairly extensive set of property maintenance codes that have been in place for some time. The vast majority of property in the City is in substantial compliance with those codes, most likely because the codes reflect the personal standards of the persons who own the property and therefore enforcement of codes by the City is not needed to gain compliance. Conversely, there also exist within the community a good number of properties that do not comply with City codes in some manner or another. The sporadic enforcement of codes by the City over the years has contributed to this dichotomy, which presently causes the City to consider a more steady and proactive form of code enforcement moving forward.

Prior to putting in to place a comprehensive strategy to attain a higher degree of compliance with property maintenance in Flandreau, it only makes sense to determine if codes that are presently “on the books” do indeed reflect community standards for property maintenance. It is for that purpose that the Flandreau Property Maintenance Code Task Force was created. Members of the Task Force were recommended to the City Council by Mayor Bonrud and approved for appointment on April 15, 2019.

## **Members of the Task Force**

The following individuals were appointed to the Task Force by the City Council:

Karla Bjerke  
Mark Bonrud  
Mark Ekern  
Jennifer Headrick  
Chris Neises  
Amy Olinger  
Bob Pesall  
Karen Tufty

City Administrator Jeff Pederson provided staff support to the Task Force. The initial meeting of the Task Force took place on June 4, 2019, during which the Charge to the Task Force was reviewed (Attachment #1). Subsequent meetings of the Task Force took place on June 18, July 9, July 22, July 29, August 29, September 9, September 23, October 14, and November 12.

## **Resources Used**

The Task Force utilized a number of written resources in conducting its work, foremost of which was Title 5 of the Flandreau City Code, Public and Private Nuisances. Additional materials included:

The International Property Maintenance Code  
Limited Survey of Property Maintenance Codes and Procedures in Small South Dakota Cities (Pederson)-Redfield, Madison, Canton, Hot Springs, Harrisburg  
City of Hot Springs Property Maintenance Requirements  
Code Enforcement 101-South Dakota Association of Code Enforcement  
Hoarding Disorder, Car- Robert Platt Bell Blog  
Sample Agreement with Code Enforcement Specialists, LLC

## **TASK FORCE WORK PLAN**

The Task Force functioned through group meetings that were structured to last for one hour. Meeting summaries and notices were communicated through email. Written materials were typically distributed in the meetings. While the Task Force did not participate in group tours of the community to survey conditions, members nonetheless did bring individual observation comments to the meetings. The City Administrator made periodic reports to the City Council of Task Force activity, which resulted in some coverage of same in the Moody County Enterprise.

The initial meeting of the Task Force consisted of review of The Charge as well as review of existing property maintenance codes currently in effect in Flandreau. At its second meeting, the Task Force reviewed the Limited Survey of South Dakota cities and discussed the role of fines in the code enforcement process.

At the third meeting, member Pesall led a review and discussion about prospect of the City adopting the International Property Maintenance Code. Over the course of the next four meetings, the group reviewed existing codes pertaining to three major areas; structural maintenance, yard maintenance, and Corey Bruning gave an overview of the code enforcement process, from which a discussion ensued including the idea of citations and fines. The final working meeting of the Task Force occurred on October 14, wherein various enforcement models were identified and discussed. On November 12, a Draft Report was reviewed and changes were made for inclusion in the Final Report.

## **SUMMARY OF TASK FORCE FINDINGS**

1. Property maintenance codes currently in place in Flandreau are substantially similar to those in effect in the surveyed cities in South Dakota.
2. While adding the ability to assess fines for violations may provide an incentive for compliance, the present ability to abate and recover costs is sufficient to effectively achieve compliance under certain conditions.
3. The City of Flandreau is limited in its ability to enforce codes related to the strength and soundness of building structures.
4. The International Property Maintenance Code can be a valuable resource to the City going forward.

5. Existing City codes relative to yard junk and debris are complete and adequate.
6. The historical reliance upon complaint-based enforcement of property maintenance codes has been largely ineffective.
7. Reliance upon the City Administrator to conduct code enforcement results in a lack of continuity of effort and consistency of enforcement.
8. There exists in Flandreau a need to put into place a more proactive program of code enforcement in order to address current issues with property devaluation, safety, and image.

### **TASK FORCE RECOMMENDATIONS**

1. Proceed to hire Code Enforcement Specialists or SD Municipal League Regional Code Enforcement Pilot Program to conduct a complete and independent one-time inspection of code violations that relate to property maintenance including maintenance of yard areas, maintenance of building exteriors, and unlicensed/inoperable vehicles.
2. Increase misdemeanor charge for Title 5 violations from current \$200 to \$500.
3. Revise language in definition of inoperable vehicle to make it perfectly clear that operability and licensure are both required to avoid classification as “inoperable vehicle”, and add language requiring owner to demonstrate operability by driving the vehicle around the block. Further, add Inoperable vehicles to the list of enumerated nuisances in Section 5.3.1.
4. For Section 5.3.2.4 (Building maintenance), replace language in Subsections b and c with the language contained in Section 304.2 (Protective Treatment) of the International Property Maintenance Code with the exception of language requiring removal of oxidation stains from exterior surfaces.
5. Revise language in Section 5.2.9, (Complaints) to remove complaints and City Council request as priority over proactive enforcement.
6. Consider making enforcement of inoperable vehicle section a function of the Flandreau Police Department.
7. Consider contracting with Municipal League or Code Enforcement Specialists for future enforcement of sections related to structure maintenance and yard junk and debris.

## **ACTION TO BE TAKEN**

The Task Force asks that the Flandreau City Council adopt the recommendations as a means to address the need to have in place the desired level of compliance with property maintenance standards that are considered to be important to the present and future attractiveness and vitality of the community.

## Agenda Action Form Flandreau City Council

Meeting Date: 5/11/2020

**Title:** Report on cost projections for repair/replacement/demolition of Crescent Street Bridge and determination of project to submit to SDDOT for grant funding.

Motion       Resolution       Ordinance       Other

**Background Information:** The Crescent Street Bridge has been permanently closed since 2014 following an inspection and report that was prepared by Civil Design, Inc. Since that time, the City has not developed a strategy for renovation or replacement of the bridge, and the structure has continued to deteriorate. While it is closed to all types of traffic, the City is unable to prevent pedestrian movement on the bridge. A new option, demolition and replacement with a pedestrian bridge, was brought forward in a Capital Improvements Project Planning Workshop conducted on February 24.

Subsequent to that Workshop, the South Dakota Department of Transportation has released information regarding grants that are available for bridge renovation, replacement, or demolition. Details on the grant opportunities were shared with the City Council during its April 20 Meeting, during which time it was emphasized that grant application deadlines would be in June for replacement projects, July for demolition projects, and early 2021 for renovation projects.

In order to begin a process to determine if the City wants to pursue one of the grant opportunities, Civil Design Inc. was hired to update the bridge inspection and provide cost estimates for the three options. The attached Report from Civil Design determines that the respective costs for the three options are \$3,147,00 for replacement, \$1,992,000 for renovation, and \$100,000-\$350,000 for demolition.

**Justification:** In its current condition, the Crescent Street Bridge constitutes a piece of dilapidated infrastructure that remains in place many years after its abandonment. The time has come to put into place a strategy to convert the bridge from its existing state while taking advantage of the present opportunity to apply for grant funds from the State DOT. With the cost for renovation being in excess of 60% of the cost of replacement, renovation becomes excluded as an option for DOT grant funding. The passage of time since abandonment has proven that the bridge is no longer a necessary part of the City's

vehicular transportation infrastructure. The reduced need for the bridge and the requirement for a City match of approximately \$568,000 renders replacement an option that lacks viability.

The City share for a DOT grant-funded project for demolition of the bridge would range from approximately \$18,000 to \$63,175. Demolition of the bridge would both remove the hazard of a deteriorating structure as well as open up the option to install a pedestrian bridge in its place to create a recreational trail as well as to re-connect the City with the Flandreau Indian School.

**Financial Consideration:** Commitment for local share for grant application in an amount ranging between \$18,000 to \$63,175.

**City Administrator's Recommendation:** Authorize submission of a grant application for bridge demolition.

**Attachment:** Crescent Street Bridge Costs Alternatives Report prepared by Civil Design, Inc.

## Agenda Action Form Flandreau City Council

Meeting Date: 5/11/2020

**Title:** Determination on opening of Flandreau Aquatic Center for summer

Motion       Resolution       Ordinance       Other

**Background Information:** On April 1, in recognition of the outbreak of COVID-19 the Flandreau City Council passed Ordinance No. 596. That Ordinance named recreational facilities, which includes the Flandreau Aquatic Center, amongst the list of locations that would not be permitted to open during the 60-day duration of the Ordinance.

Many normal preparation items for Aquatic Center opening have taken place this spring, including staff recruitment and some make-ready of the facility. During his period, Flandreau staff have sought and monitored guidance for operation of the swimming pool from multiple sources including the Governor's Office, the Center for Disease Control, the National Recreation and Park Association, and the American Red Cross. As has become the standard for most public facilities, the composite guidance on the matter of public safety at the facility during the pandemic centers upon physical spacing and sanitizing of surfaces.

At the City Council Meeting on May 4, the City Administrator and City Council had some discussion on the prospective opening date of the Aquatic Center including measures that are recommended to achieve distancing and sanitation. At the conclusion of that discussion, the City Administrator stated his intention to convene a Committee to determine the exact measures that should be put into place for operation of the Aquatic Center this summer during the COVID-19 spread as well as the impact that those measures would have on the operation of the facility.

On May 7, a Committee consisting of the following participants met: Mayor Mark Bonrud, City Administrator Jeff Pederson, Aquatic Center Manager Michelle TenEyck, Councilman Don Whitman, Councilman Jason Unger, and Leanne Amdahl. Generally, the group discussion followed National Recreation and Park Association guidelines for determining recreational facilities re-opening which include: 1. Analyzing individual spaces for risk, 2. Assessing staff capacity, 3. Identifying necessary supplies, 4. Assessing the priority of opening the facility based upon the needs of the community. Pool Manager TenEyck stated what her safety recommendations are to meet CDC guidelines, and in addition

advised the group that for various reasons there is a shortage of certified lifeguards available this year. The group concluded that the combination of safety measures required for operation, combined with a shortage of staff, renders the operation of the facility infeasible for this year.

**Justification:** Need to make an immediate determination

**Financial Consideration:** It is believed that the loss for operating the Aquatic Center in 2020 would exceed average years by a range of \$15,000-\$20,000 due to a decrease in revenue and an expected increase in operational costs, both associated with conditions associated with the COVID-19 outbreak.

**City Administrator's Recommendation:** Accept Committee recommendation to not operate Flandreau Aquatic Center this year. Alternatively, a decision to open the Aquatic Center will require reduced hours in order to accommodate the level of available staffing.

**Attachments:** None