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City of Dickinson
c/o Attorney Christina Wenko
cwenko@mackoff.com

RE: Chapter 62 - Zoning Text Amendment – Vehicle Storage and Auto Services

Attorney Wenko and City Commissioners:

I am unavailable to attend the public hearing and therefore am writing to express opposition to the Zone Text Amendment presented by City Planner Birchak.

You already have an explicit zoning ordinance that defines your Automotive and Equipment Services and Vehicle Storage:

Sec. 62-133. - Commercial use types.

Commercial uses include the sale, rental, service, and distribution of goods; and the provision of services other than those classified under other use types.

(1)*Agricultural sales and service.* Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides and similar goods or in the provision of agriculturally-related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service firms.

(2)*Automotive and equipment services.* Establishments or places of business primarily engaged in sale and/or service of automobiles, trucks, or heavy equipment. The following are considered automotive and equipment use types:

a.*Automotive rental and sales.* Sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships, motorcycle dealerships, and boat, trailer, and recreational vehicle dealerships.

b.*Auto services.* Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles; and washing and cleaning and/or repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations,

car washes, muffler shops, auto repair garages, tire sales, and installation, wheel and brake shops, and similar repair and service activities but exclude dismantling, salvage, or body and fender repair services.

c. *Body repair.* Repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.

d. *Equipment rental and sales.* Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.

e. *Equipment repair services.* Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling, salvage, or body and fender repair services.

f. **Vehicle storage.** Storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-always or impound yards but exclude dismantling or salvage. Long-term storage of operating or non-operating vehicles beyond 21 days constitutes an industrial use type.

Section 62-469 which follows the above definitional section of your code then reads:

Where permitted in commercial districts, all repair activities must take place within a completely enclosed building. Outdoor storage incidental to Auto Services, Equipment Repair, and Body Repair must be completely screened so as not to be visible from residential areas or public rights-of-way. In this context, undeniably, what is not “within a completely enclosed building” would be “outdoor.” The “Outdoor Storage” language is clearly outdoor “Vehicle Storage” under your own code definitions and context.

Currently **Section 62-10 Definitions** defines the following:

Outdoor storage means the storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three days.

Parking facility means an area on a lot and/or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of this chapter. Parking facilities include parking lots, private garages, and parking structures. Vehicle storage is distinct from parking, and is regulated by provisions in Article III of this chapter and Table 62-162-2. Vehicle storage is also governed by provisions of Article IX of this chapter.

Your ordinance permits the Auto repair businesses to have such vehicle storage in a commercially zoned area, (this means the owners' property, not a public street) provided that under the above sections that is does not exceed 21 days (otherwise it will constitute Industrial Use Type) **and must be** completely screened so as not to be visible from residential areas or public rights-of-way.

There exists no exception in your zoning and nuisance ordinances for such businesses to utilize the "park on the public street for 48 hours rule" to sidestep responsibility for their activities and damages to other property owners. Excusing repetitive conduct so long as one "cleans up their mess" is not consistent with the purpose of the City's own nuisance laws to protect both the public from health hazards related to automotive fluids spills, but also to preserve the public property, i.e. the streets, from damage. In the windows between such "clean up," surrounding property owners and the public continue to have their health, safety, and property damaged.

The above zoning provisions are the only remaining teeth in your code to control the expansion of the nuisances impacting the neighboring properties and demands on City resources. A complaint was filed by Anthony Kleinwachter in August 15, 2024, asking the City to take action against such issues in the 900 block of 1st St. East. As of the writing of this letter, nominal progress has been made other than the proposal now pending to simply redefine your ordinances to expressly permit the storage of vehicles incidental to Auto body repair service businesses on the public streets. This proposal comes with empty promises that violations of 'parking' ordinances, brought to the attention of the City, will be handled on a case-by-case basis, subject to prosecutorial discretion.

In other words, just as the presentation before the City in January 2025 demonstrated, out of 16 documented 'parking' complaints as to the 900 block of 1st St East within 2024, only 1 citation was issued. Since January 2025, the City Attorney's office has been provided monthly files of pictures and videos of the auto repair incidental vehicles continuing to line the streets, deposit fluids and debris on the streets, block driveways and yellow striped no parking zones, and ongoing traffic safety concerns as vehicles and goods are unloaded in the middle of the right of way. No further investigations into any of those incidents has occurred. The City's choice to treat these issues as 'parking' violations instead of 'zoning' violations has tied its own hands as the problem grows and City resources are too strained to properly manage them. The answer is not to legalize the problem by playing with definitions, and ignore the impacts.

The proposed amendments attempt to remove "vehicle storage" as a permitted use in Commercial zones districts, but only on the Table according to the proposal, not in the substantive provisions of Section 62-133(2)(f). This will leave inconsistencies in your code.

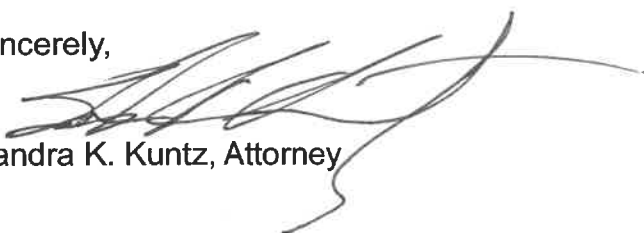
The rationale expressed in P&Z hearings was the need to balance the impact on business owners, a list of which the City compiled as over 25 businesses whom are out of compliance across the City of Dickinson. The undisputed fact is that of the 25 businesses,

10 of those went into the auto service business at their present locations since the code's implementation in 1998, and could have been avoided. The City's lack of enforcement has allowed the impact to fall on neighbors and City/taxpayer resources.

Denying the proposed text amendments and instead enforcing the Code as it is written to force compliance with zoning provisions would balance the need to look out for neighboring properties, health and safety of all Citizens, and save City resources that currently are being wasted by attempting to chase violations under the guise of "parking" violations and attempting to prosecuting the violations individually when an overriding approach through zoning would eliminate such piecemeal enforcement efforts.

The City has the necessary Ordinances it needs, without amendments, to resolve the issue City wide and balance the interests of all involved.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sandra K. Kuntz', with a long, sweeping horizontal line extending to the right.

Sandra K. Kuntz, Attorney