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REVISED ORDINANCES
OF THE
CITY OF NEW ROCKFORD
NORTH DAKOTA

Published By Authority Of The
CITY COMMISSION

1982
Compiled and Revised by
Jim. Bekken of Hovey, Bekken & Rarnstad, Ltd.

Effective April 6th , 1983

PRESENT CITY OFFICIALS—ELECTIVE

President of the Board.	Calvin J. Packard
Commissioner.	Stuart Richter
Commissioner.	Amy Ellingson
Commissioner.	DeVon Allmaras
Commissioner.	Kelly McKnight

PRESENT CITY OFFICIALS--APPOINTIVE

City Attorney.	Travis Peterson
City Auditor.	George J. Ritzke
City Assessor.	Kristy O'Connor

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ADOPTION OF ORDINANCES

An Ordinance adopting a revision and codification of the ordinances of the City of New Rockford, North Dakota, entitled "The Ordinances for the City of New Rockford, North Dakota, 1982", providing for the repeal of certain ordinances not included therein, with certain exceptions and for other purposes as hereinafter set out.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF NEW ROCKFORD, NORTH DAKOTA:

Section 1. Revised Ordinances of 1982. This ordinance and the ordinances hereby adopted shall be known and cited as the Revised Ordinances of 1982.

Section 2. Enactment. The Revised Ordinances of 1982 of the City of New Rockford, North Dakota, consisting of Chapters 1 to 18, both inclusive, an original copy of which has been authenticated by the original signatures of the City's chief executive officer and auditor and which original is on file in the office of the city auditor, are hereby adopted as the ordinances of the City of New Rockford.

Section 3. Repeal. The Ordinances of the City adopted prior to the 6th day of April, 1983, are hereby repealed except the following ordinances which shall continue in full force and effect regardless of the fact they are herein omitted:

a. All existing ordinances granting franchises, If omitted from these revised ordinances.

b. All existing ordinances creating contract obligations on the part of the City, which obligations shall remain binding until fully performed by the City.

c. All existing ordinances establishing special improvement districts, or street grades.

d. All of the existing ordinances levying taxes for any years under the provisions of any law relating to the issuance of revenue bonds, municipal bonds, warrants, certificates of indebtedness or other municipal obligations, whether general or special.

e. All salary and appropriation ordinances.

f. The incorporation herein of any of the ordinances of the City of New Rockford granting franchises shall not operate to repeal the same in their original form nor to extend the term of any franchise beyond that fixed in that ordinance granting the same which is re-enacted herein.

g. Any and all other ordinances adopted in said Revised Ordinances of 1982 by reference, although the same are not set forth in full therein.

h. All existing ordinances establishing, extending or reducing city limits of the City, if omitted from these revised ordinances.

ADOPTION OF ORDINANCES

Section 4. Existing Licenses and Permits. All licenses and permits issued prior to the date on which this ordinance becomes effective shall continue in force for the remainder of the term for which the same were issued, without additional fees, but all licenses and permits shall be governed by the provisions of the Revised Ordinances of 1982 for the remainder of the terms of said licenses and permits, in the same manner and to the same extent as if said licenses and permits had been issued under the provisions of the Revised Ordinances of 1982.

Section 5. New Licenses and Permits. In the case of any license or permit not heretofore required and appearing for the first time in the Revised Ordinance of 1982, such license or permit shall be secured on or before the first day of the first month following the effective date of this ordinance and the first fee therefore shall be pro-rated for the remainder of the term thereof on a monthly basis, provided, that the minimum fee for any such new license or permit shall be One Dollar (\$1.00)

Section 6. Invalidity of Part. If any section, subsection, sentence, clause, or phrase of these ordinances is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause, phrase or portion thereof. The governing body hereby declares that it would have passed these ordinances and each section, sub-section, sentence, clause or phrase thereof, irrespective of the fact that anyone or more other sections, sub-sections, sentences, clauses or phrases may be declared invalid or unconstitutional.

Section 7. Penalties. Whenever in such ordinance or in any ordinances of the City any act is prohibited or is made or is declared to be unlawful or an offense or whenever in this ordinance or any ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, any person upon conviction for the violation of such provision of such ordinance or any ordinance shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment for each offense. Except that any person convicted of shoplifting, vandalism, criminal mischief, or malicious mischief shall be punished by a fine not exceeding \$1,000.00, imprisonment .for thirty (30) days or both such fine and imprisonment.

Each day any violation of any provision of such ordinance or any ordinance shall continue shall constitute a separate offense. In the construction and interpretation of this section, the revocation of

ADOPTION OF ORDINANCES

license or permit shall not be considered as a recovery or penalty so as to bar any other penalty being enforced.

Section 8. Effective Date. This ordinance shall be in full force and effect from and after final passage and approval and without publication.

Introduced by: Craig Romanoski
Seconded by: William Ziegler
First Reading: March 21, 1983
Second Reading: April 4, 1983
Final Passage: April 6, 1983

Approved: Mervin Bjornson
President of the Board of
City Commissioners of the
City of New Rockford,
North Dakota

Attest:
Frank J. Allmaras
City Auditor

CHAPTER 1

GOVERNMENT ORGANIZATION

Article 1.

JURISDICTION

1-01-01 Over Persons and Property

The jurisdiction of the City of New Rockford, North Dakota, extends to all persons, places and property within its boundaries and such extra-territorial jurisdiction as is granted to it under the provisions of the North Dakota Century Code and amendments thereto.

1-01-02 Defining City Limits

There shall be included within the municipal limits of the City of New Rockford, North Dakota, the following territory or land; all blocks and lots shall also include all streets, alleys and public ways, included within the area and adjacent thereto which are defined as within the confines of the City limits: All that portion of Eddy County in the State of North Dakota embraced within the limits and boundaries hereinafter described shall be a City by the name of City of New Rockford, and the people inhabiting and those who shall hereafter inhabit within the limits and boundaries herein described and hereafter established by adding thereto regularly laid out and approved additions, shall be a municipal corporation by the name of the City of New Rockford, to-wit:

All that portion of Eddy County in the State of North Dakota comprising the following Additions and Auditor's Lots:

Original Townsite; Fairview Addition; Greeley Addition; First Academy Addition; Second Academy Addition; West End Addition; College Addition; Northwest Addition; Railway Addition; Riverside Addition, Rosedale Addition; Haas Addition; Peoples Addition; Jackson Heights; Devereaux Addition; Watson Addition; Hilltop Addition; Sundberg Addition; Sunrise Addition; Morningside Addition.

TOWNSHIP 148, Range 66:

Section 6: Auditor's Lot 22

TOWNSHIP 149, RANGE 66:

Section 31: Auditor's Lots 1-A, I-B, 1-C, 2, 3, 4, 5, 7-A, 7-B, 7-C, 7-D, 7-E, 7-F, 8, 12, 13, 17

Section 32: Auditor's Lots 5-A, 5-B, 5-C, 6, 7, 8 8-A, 9, 10-AA, 10-B, 10-C, 10-D, 10-E, 10-F, 11-A, 11-B, 12, 13, 14, 15, 16, 17, 13, 19, 20, 20-A, 20-B, 21, 22, 23, 23-A

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Section 33: Auditor's Lots 11 C-1, 11 C-2, 22-A, 22-B2

All the territory and property situated within the boundaries aforesaid are within the Corporate Limits of the City of New Rockford and are subject to the laws, rules and ordinances enacted for the government of said City.

1-01-03 Meaning of Name, "City of New Rockford"

Whenever in these Ordinances or in contracts with the said City of New Rockford, the "City of New Rockford" shall be designated, such designation shall be deemed a municipal corporation under the general laws of the State of North Dakota, for the incorporation and government of cities embracing the territory aforesaid and bounded as aforesaid.

1-01-04 Additions

Any addition which may be made to the City of any lands adjoining the same and any lands within the City which may be laid out in lots or blocks, shall be so laid out, surveyed and platted that they shall conform to the regular blocks, streets, avenues and alleys of the original town plat, or with the regular blocks, streets, avenues and alleys of any addition adjoining such lands or additions proposed to be laid out, and the streets, avenues and alleys shall correspond with and conform to the previously established streets, avenues and alleys with which they connect and shall be continuous thereof in width and direction.

When any person may wish to layout or plat any addition of lands adjoining or within the City with blocks irregular in size and with streets, avenues and alleys diverging in the direction from that of the original town or plat, or any addition to which such lands or proposed additions may adjoin, he may apply to the Board of City Commissioners designating the manner in which he proposes to layout such lands or additions, and upon approval thereof by the City Council, such lands or additions may be so laid out and platted, subject to final approval by the Board.

No public improvement shall be made by the City in any addition or plat hereafter which does not conform to the requirements of this chapter.

1-01-05 Division of City into Wards

There shall be two (2) wards within the City of New Rockford to be known and designated as:

WARD 1: - that portion of the City which lies North of the center line of 1st Avenue North and a line due east therefrom to the East line of said corporation, and a line due west

GOVERNMENT ORGANIZATION

therefrom to the West line of said corporation, shall constitute the First Ward.

WARD 2: - that portion of the City which lies South of the center line of 1st Avenue North and a line due east therefrom to the East line of said corporation, and a line due west therefrom to the West line of said corporation, shall constitute the Second Ward.

1-01-06 Names of Streets and Avenues

The names of the present streets and avenues of the City of New Rockford shall be as follows:

All Avenues will extend in an East - West direction.
All Streets will extend in a North - South direction.

The base line for the numbering of Avenues shall be Central Avenue (Villard Avenue on the plat of the original town as filed and recorded in the office of the Register of Deeds of Eddy County, North Dakota.) All Avenues north of Central Avenue shall be numbered in sequence starting with First Avenue North, then Second Avenue North, and so on until reaching the north boundary of said corporation. All Avenues south of Central Avenue shall be numbered likewise starting with First Avenue South, then Second Avenue South, and so on until reaching the south boundary of said corporation. This numbering system for avenues shall apply only as far east as U.S. Highway 281 which is located on the Section line between Sections 32 and 33 of Township 149 North, Range 66 West.

East of U.S. Highway 281 the base line shall again be Central Avenue which shall be a continuation of Central Avenue as described above. North of said base line the Avenues shall be numbered in sequence as First Avenue Northeast, Second Avenue Northeast and so on to the North boundary of said corporation. South of said Central Avenue the Avenues shall be numbered in sequence as First Avenue Southeast, Second Avenue Southeast and so on to the South boundary of said corporation.

The base line for the numbering of Streets shall be U.S. Highway 281 as the same is now laid out in the office of the Register of Deeds of Eddy County, North Dakota. For city street numbering purposes, U.S. Highway 281 shall be known as First Street. All streets west of said First Street shall be numbered consecutively starting with Second Street, then Third Street, and so on to the West boundary line of said corporation. All Streets lying east of said U.S. Highway 281 (First Street) and north of Central Avenue shall be designated as First Street Northeast, Second Street Northeast, and so on to the east boundary of said corporation. All streets lying

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east of said U.S. Highway 281 (First Street) and south of said Central Avenue shall be designated as First Street Southwest, Second Street Southwest, and so on to the east boundary of said corporation.

1-01-07 Consolidation of Wards

The first, second and third wards of the City of New Rockford, North Dakota, are hereby consolidated for the purpose of voting at City Elections into one voting precinct and the Brown Memorial Auditorium of said City of New Rockford, North Dakota, is hereby designated as the polling place for all precincts for any and all City elections held in and for said City.

Article 2.

GENERAL PROVISIONS

1-02-01 How Ordinances Designated and Cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Ordinances of the City of New Rockford, North Dakota, 1982", and may be so cited. Such Ordinances also may be cited as New Rockford Ordinances, 1982.

1-02-02 Definitions and Rules of Interpretation

In the construction of this Code and all Ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Board of City Commissioners.

THE WORD "BOARD" IS THE ABBREVIATED NAME OF THE GOVERNING BODY OF THE CITY OF NEW ROCKFORD, NAMELY, THE BOARD OF CITY COMMISSIONERS OF NEW ROCKFORD.

GOVERNMENT ORGANIZATION

Boulevard. The word "boulevard" is defined as that strip of land abutting on either side of the streets of the city lying between the outside edge of the sidewalks and the curb along such streets.

City. The words "the City" or "this City" 'shall be construed as if followed by the words "of New Rockford".

Ordinance .The words "the Ordinances" or "this Ordinance" shall mean "The Ordinances of the City of New Rockford, North Dakota, 1982.

Computation of Time. The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last is a holiday and then it is also excluded.

County. The words "County" or "the County" mean Eddy County in the State of North Dakota.

Day. A day is the period of time between any midnight and the midnight following.

Daytime, Nighttime. "Daytime" is the period between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

Gender. Words used importing masculine gender include the feminine and neuter.

In the city. The words "in the City" shall mean and include all territory over which the City now has or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

Joint Authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons.

Month. The word "month" shall mean a calendar month.

Number. The singular number includes the plural and the plural the singular.

Oath. "Oath" shall include "Affirmation".

Officers, Departments, Etc. Officers, departments, boards, commissions and employees referred to shall mean officers, departments, boards, commissions and employees of the City of New Rockford, unless the context clearly indicates otherwise.

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Or, And. "Or" may be read and "and" may be read "or", if the sense requires it.

Owner. The word "owner" applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or a part of such building or land.

Person. The word "person", except when used by way of contrast, shall include not only a human being, but a body politic or corporate.

Personal Property. Personal property shall include money, goods, chattels, things in action and evidences of debt.

Preceding, Following. The words "preceding" and "following" mean next before and next after, respectively.

Property. Shall include property, real and personal.

Real Property. Shall be co-extensive with lands, tenements and hereditaments.

Several. The word "several" in relation to number, shall mean two or more.

Shall, May. "Shall" is mandatory and "may" is permissive.

Sidewalk. The word "sidewalk" means that portion of a street between the curb lines, or the lateral lines of a road and the adjacent property lines, intended for the use of pedestrians.

Signature or Subscription. Shall include a "mark" when the person cannot write, his name being written near it and written by a person who writes his own name as a witness.

State. The words "state" or "the state" shall mean the State of North Dakota.

Street. The word "street" means the entire width between property lines of every way or place of whatsoever nature when any part thereof is open to the use of the public as a matter of right of way for the purposes of vehicular traffic.

GOVERNMENT ORGANIZATION

Usual and Customary. The words "usual" and "customary" shall mean "according to usage".

Written and Printed. The words "writing" and "written" shall include "typewriting" and "typewritten" and "printing" and "printed" except in the case of signatures and when the words are used by way of contrast to "typewriting" and "printing". Writing may be made in any manner, except when a person entitled to require the execution of a writing demands that it be made with ink, it must be so made.

Year. The word "year" shall mean calendar year, except where otherwise provided.

1-02-03 Catchlines of Sections

The Catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor unless expressly so provided shall they be so deemed when any of such sections, including the Catchlines, are amended or reenacted.

1-02-04 Provisions Considered as Continuations of Existing Ordinances.

The provisions appearing in this Code, so far as they are substantially the same as those of ordinances existing at the time of the adoption of this Code, shall be construed as a continuation thereof and not as new enactments.

1-02-05 Severability of Parts of Code.

Should any section, paragraph, sentence, clause, phrase or word of this Code be declared invalid or unconstitutional by a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs or sections of this Code, since the same would have been enacted by the City Council without the incorporation in this Code of any such invalid or unconstitutional word, phrase, clause, sentence, paragraph or section.

1-02-06 Repeals does Not Revive Ordinance Previously Repealed

Whenever any Ordinance of the Board of City Commissioners, which repealed a former ordinance, is repealed, such former Ordinance shall not be revived by such repeal unless there is express provision to the contrary.

GOVERNMENT ORGANIZATION

1-02-07 Repeal; Effect

The repeal of any Ordinance by the Board of City Commissioners shall not have the effect of releasing or extinguishing any penalty, fine, liability or forfeiture incurred under such Ordinance, but as to cases tried before, or subsequent to, the repeal of such Ordinance, it shall have the effect of extinguishing any jailor prison sentence that may be, or that has been, imposed by reason of such law, unless the repealing Ordinance shall provide expressly that the penalties of imprisonment shall remain in force as to crimes committed in violation of such law prior to its repeal. In other respects, such Ordinance shall remain in force only for the purpose of the enforcement of such fine, penalty or forfeiture.

1-02-08 General Penalty; Continuing Violations

Whenever in this Code or in any Ordinances of the City or in any rule or regulation promulgated pursuant thereto, any act is prohibited or is made or declared to be unlawful or an offense, or whenever in this Code or any Ordinance or in any rule or regulation promulgated pursuant thereto the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, any person upon conviction for the violation of any such provision of this Code or any Ordinance or any such rule or regulation shall be punished by a fine not exceeding Five Hundred and no/100 Dollars (\$500.00) or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment, for each such offense. Except that any person convicted of shoplifting, vandalism, criminal mischief, or malicious mischief shall be punished by a fine not exceeding One Thousand and no/100 Dollars (\$1,000.00), imprisonment for thirty (30) days or both such fine and imprisonment. Each day any violation of any provision of this Code or of any Ordinance or of any such rule or regulation shall constitute a separate offense. In the construction and interpretation of this section, the revocation of a license or permit shall not be considered as a recovery or penalty so as to bar any other penalty being enforced.

1-02-09 Cost to be Added to Fines

In each case of a conviction of a violation of any of the provisions of this Code or other Ordinances of the City or any part thereof, where a fine is imposed, all costs of prosecution may be added to such fine as apart of the punishment, at the discretion of the municipal judge.

1-02-10 Disposition of Fines, Etc.; Use of Bail Schedule

All fines or forfeitures collected upon conviction, or upon forfeiture of bail of any person charged with the violation of any provision of this Code or other City Ordinance shall be disposed of as by law provided. The municipal judge may file with the police chief a

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schedule in writing by the municipal judge, indicating the amount of bail fixed by such municipal judge, for the release of persons arrested or charged, with any violation of the provisions of this Code or other Ordinance and based on the offense charged, which schedule shall be applicable for the bail to be furnished in his absence from the municipal judge court, and any person who pays or delivers such bail to the chief of police or any other person in charge of the police department at the time, shall be immediately released from custody; provided that the municipal judge may in all cases where he is present in municipal judge court fix bail in such amounts or upon such conditions as may be provided by law and within his discretion without regard to the bail schedule and applicable in his absence from municipal judge court.

1-02-11 Imprisonment in Lieu of Fine

In each case of conviction for violation of any provision of this Code or other Ordinances of the city where a fine is imposed, the municipal judge may adjudge that the person convicted be committed to the City or County jail, and be there confined until such fine and costs are paid, the sum of Ten Dollars (\$10.00) being credited on such fine and costs for each day of imprisonment.

1-02-12 Summons or Warrant for Arrest; Powers of Arrest of Certain

In all actions for the violation of any provision of this Code or other City Ordinance, the first process shall be a summons, but a warrant for the arrest of the offender shall be issued upon the sworn complaint of any person that a provision of this Code or other City Ordinance has been violated and that the person making the complaint has reasonable grounds to believe the person charged is guilty of such violation. Any person arrested under a warrant shall be taken without unnecessary delay before the proper officer to be tried for the alleged offense.

Any constable of the County, the sheriff of the County, the chief of police or any policeman of the City is authorized to execute any warrant charging a violation of any provision of this Code or any other Ordinance of the City and may arrest any person whom he shall find committing any violation of any provision of this Code or other Ordinance of the City, without a warrant.

GOVERNMENT ORGANIZATION

Article 3

ADMINISTRATION - GENERAL PROVISIONS

1-03-01 Preservation of Records

All books, files and records of the City shall be kept at the proper offices of the City and so far as practicable, shall be kept in fireproof vaults therein when not in use.

1-03-02 Acquisition of Supplies Generally

The incidental office supplies for the different departments of the city shall be secured through the office of the city auditor and all such supplies shall be obtained from the auditor by requisition made upon blanks to be provided by him for that purpose.

1-03-03 Fiscal Year

The fiscal year of the City shall commence on July 1 and terminate on June 30.

Article 4.

GOVERNING BODY -BOARD OF CITY COMMISSIONERS

1-04-01 Regular Meetings

The Board of City Commissioners shall hold its regular meeting on the first Monday of each month at the City Hall in accord with section 40-09-11 of the N.D.C.C., at the hour of 7:00 o'clock P.M., unless some other time or place shall be specifically fixed by the Board.

1-04-02 Special Meetings

Special meetings may be called at any time by the President of the Board or any two members of the Board to consider matters mentioned in the call of such meeting. Written notice of any special meeting shall be given to each member of the Board at least three (3) hours before the time of meeting.

1-04-03 Rules Regarding Meetings

1. At the hour of meeting, the President of the Board shall call the Board to order. He shall preserve order and decorum, and decide all questions of order subject to an appeal by the Board.

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2. As soon as the Board shall be called to order, the auditor shall proceed to call the names of the aldermen in alphabetical order, marking who is present and who is absent and record the same in the proceedings of the Board.

3. At each regular meeting of the Board, the order of business shall be as follows:

First: Reading and correcting the journal of the last preceding meeting.

Second: Accounts or bills may be introduced and acted upon.

Third: Reports of standing committees, special committees or boards may be made and considered, first from the standing committees and next from the select boards and committees.

Fourth: Receiving petitions, memorials, remonstrances and Communications.

Fifth: Ordinances may be introduced and Ordinances introduced at previous meetings may be put on their passage.

Sixth: Miscellaneous Business.

Seventh: Adjournment.

4. All demands, claims or accounts against the City of New Rockford shall first be examined by the City Auditor, who shall report with his approval or disapproval to the Board.

5. All accounts presented to the Board for allowance shall be in detail stating if for labor performed, the locality, when such work was done, by whose order, number of days employed and the price to be paid per day; if for material furnished, by whose order, and the place where such material was used and delivered, and no goods or merchandise shall be delivered, by any merchant or anyone else for the use or account of the city except upon order of the city auditor, and this order must be attached to a bill when presented to the Board for payment.

6. When a motion is made and seconded, it shall be stated by the presiding officer or read by the auditor previous to debate. All resolutions shall be reduced to writing; any resolution may be withdrawn by consent of the Board before discussion or amendment.

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7. All questions shall be put in this form: "Those that are in favor of the motion (state the question) say 'aye', those opposed of the motion say 'no'". In doubtful cases or before the question is decided, any member may call for ayes and nays and when the ayes and nays are called for and ordered, the fact shall be entered on the journal, with the names of the persons voting and the nature of their vote, the ayes and nays shall in all cases be ordered when called for by anyone member.

8. A motion to adjourn shall always be in order, except when a vote is being taken.

9. When a question has once been decided, it shall be in order for any member of the majority, or in case of tie, for any member voting the affirmative to move a reconsideration thereof at the same or next regular meeting.

10. Any commissioner may call for a division of the question when the same may admit thereof.

11. When a question is under debate, no motion shall be received unless to adjourn, to lay on the table, for the previous question, to amend or to postpone, and these several motions shall have precedence in the order in which they are arranged in this rule.

12. In all cases when a resolution shall be entered on the minutes, the names of the members moving the same shall be entered in the minutes but names need not be mentioned when motions are made and entered in minutes.

13. The report of committees may be made in writing or may be made orally.

14. The rules of parliamentary practice in Robert's Rules of order shall govern the Board in all cases in which they are applicable and in which they are not inconsistent with these rules.

15. It shall be the duty of the Board to cause to be published in an official paper, designated by it, a complete record of all proceedings of the Board of City Commissioners.

1-04-04 Salaries and Bonds

The salary of city officials and appointive officers, except as otherwise provided by law, shall be in such sums and amounts as may be, by resolution of the Board of City Commissioners, fixed from time to time. Each Commissioner, before entering upon the duties of office, shall furnish a bond as provided in N.D. Cent. Code 40-09-07 or as otherwise provided by law.

GOVERNMENT ORGANIZATION

1-04-05 Vice - President - Election of

At the first meeting of the Board after each biennial election one of its members shall be elected vice-president.

GOVERNMENT ORGANIZATION

Article 5.

MUNICIPAL JUDGE

1-05-01 Repealed by Ordinance effective July 24, 2000.

GOVERNMENT ORGANIZATION

ARTICLE 5.1

TRANSFER OF MUNICIPAL CASES

1-05.1-01 Transfer of Municipal Ordinance Cases to District Court

All cases which charge a Violation of New Rockford Municipal Ordinance shall from and after July 1,2000 be filed and heard in Eddy County District Court.

GOVERNMENT ORGANIZATION

Article 6.

APPOINTIVE OFFICES

1-06-01 Appointive Offices

At the first meeting after the qualifications of its members, or as soon thereafter as possible, the governing body shall appoint persons to the following offices:

City Auditor
City Attorney
City Assessor
City Physician
Street Commissioner
Chief of Fire Department
Chief of Police
One or more policemen
Board of Public Works
City Building Official
Zoning Board of Adjustment
Such other officers or boards as the Board of City Commissioners may deem necessary

1-06-02 Term of Appointive Officers, Oath, Bond

The terms of all appointive officers shall begin on May 1st after the regular election of city commissioners and shall continue for a term of four (4) years and until their successors have been appointed and qualified. Any person appointed to fill a vacancy shall hold his office for the unexpired term unless appointed as an "acting" officer. An "acting" officer shall serve at the pleasure of the governing body. Before entering upon the duties of their office, appointed officers shall take oath and give the bonds required by Section 1-06-04.

1-06-03 Removal and Right to Dispense with Offices

Appointive officers may be removed and any vacancy may be filled in the manner provided by state law. "Acting" officers may be removed at any time by the Board. Furthermore, the Board may by a majority vote, dispense with any offices set forth in 1-06-01, which in the Board's judgment are unnecessary.

1-06-04 Bonds of Municipal Officials

The auditor, municipal judge and assessor of New Rockford and such other officers as the Board may direct shall furnish the city bonds payable to the City, conditional for the honest and faithful performance of their official duties. Such bond shall be in an amount fixed by the Board. The bond of the auditor shall be set by resolution of the Board at a regular meeting in April of each year. All bonds

GOVERNMENT ORGANIZATION

shall be in conformity with the requirements set forth in N.D. Cent. Code 40-13-02.

1-06-05 Salaries

The salary of appointive officers, except as otherwise provided by law, shall be in such sums and amounts as may be, by resolution of the Board of City Commissioners, fixed from time to time.

1-06-06 Administrative Policy and Procedures

Perform Duties. Each officer shall:

1. Perform all duties required of his office by state law or Ordinance and such other duties not in conflict as may be required by the Board.

2. Be immediately responsible to the Board for the effective administration of their departments and all activities assigned thereto.

3. Keep informed as to the latest practices in their particular field and shall inaugurate with approval of the governing body such new practices as appear to be of benefit to the service and to the public.

4. Submit such reports of activities of his department as the governing board may request.

5. Be responsible for the proper maintenance of all City property and equipment used in his department.

6. Establish and maintain records in sufficient detail to furnish all information needed for proper control of department activities and to form a basis for reports to the governing board.

7. Cooperate with other officers, departments and employees.

8. Have power to direct and supervise all subordinates under him.

1-06-07 Obstructing a Public Official Prohibited

Every person who willfully delays or obstructs a public officer in the discharge or attempt to discharge any duty of his office shall, upon conviction thereof, be punished as herein provided.

GOVERNMENT ORGANIZATION

Article 7

PURCHASING AND DISPOSITION OF PROPERTY

1-07-01 Competitive Bidding Required

All purchases of, and contracts for supplies and contractual services, and all sales of property which have become obsolete or unusable shall, except as otherwise provided herein, be based whenever possible on competitive bids.

1-07-02 Procedure

All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$75,000.00, shall be purchased from the lowest responsible bidder after due notice inviting proposals. All sales or disposition of obsolete or unusable property, when the estimated value shall exceed \$25,000.00, shall be sold to the highest responsible bidder. The lowest responsible bidder or the highest responsible bidder shall be the bidder who in addition to price has the best ability, capacity and skill to perform the contract or provide the service required, promptly or within the specified time without delay or interference. There shall also be considered character, integrity, reputation, judgment, experience and efficiency of the bidder, the quality of performance of previous contracts, sufficiency or financial resources, and previous and existing compliance with State and City Ordinances.

1-07-03 Open Market Purchases

All purchases and contractual services and all sales of property which have become obsolete or unusable of an estimated value of less than \$25,000.00 or all supplies and services of a noncompetitive type or kind, or purchases and sales between governmental bodies, or when in the opinion of the Board an apparent emergency requires immediate purchase of supplies or contractual services, shall be made or obtained in the open market without competitive bidding.

1-07-04 Prohibition of Interest

Whenever supplies or services are purchased in the open market or property disposed of in the open market without competitive bidding, the supplier or purchaser shall execute and file with the City auditor an affidavit reading as follows:

GOVERNMENT ORGANIZATION

AFFIDAVIT BY CONTRACTOR

State of)
)ss
County of)

_____, being first duly sworn, on oath, says he is _____ of _____, who has or herewith submits a proposal to the City of New Rockford, North Dakota, to contract, and:

1. That such proposal was not made in the interest of or on the behalf of any undisclosed person, partnership, company, association, organization or corporation.

2. That no City office, public officer or employee is interested, directly or indirectly, in such proposal or contract resulting from its acceptance by the City, except for lawful compensation and necessary expenses in the performance of official duties.

3. That no City officer, public officer or employee has received or will be offered, given or paid any consideration, commission or gratuity by the contractor, its agents, servants or employees.

4. That the contractor has not, directly or indirectly colluded, conspired, connived or agreed with anyone to obtain the proposed contract work without open bidding therefor nor by inducing anyone to refrain from bidding or making a proposal therefor.

5. That affiant has not received from any City officer, public officer or employee any special information or data relative to the proposed contract which is not or has not been available to any other person, nor has he received any special aid or assistance from any City officer, public officer or employee in preparing his proposal to the City.

(Contractor)

-

-

By _____

GOVERNMENT ORGANIZATION

Subscribed and sworn to before me this _____ day of _____, 20_____.

(SEAL)
State

Notary Public
County,

My Commission Expires:

1-07-05 Conveyance, Sale, Lease or Disposal of Personal Property

Whenever any personal property is no longer required for a public purpose, it may be offered for sale by the Board. When the property to be disposed of is estimated by the Board to be of a value of less than Twenty-five Hundred and no/100 Dollars (\$2,500.00), such property may be sold at private sale or public sale upon proper resolution of the Board. In all other cases, such property may be sold only at public sale. If sold by public sale, the City Auditor will advertise for bids in the official newspaper of the City and such other places and on terms as required by the Board in its resolution to sell. This provision shall not apply, however, to property to be traded as part of the purchase price of a new purchase. For the purpose of convenience and expediting of the performance and satisfactory completion of City construction contracts, appropriate City departments may re-sell to contractors for installation on City contract projects only, on hand items including but not limited to water hydrants and meters. When specific statutory provisions contained in the North Dakota Century Code provide for a procedure, which is in conflict with this section governing the conveyance, sale, lease or disposal of personal property, this section shall not apply insofar as it is in conflict with such State law. Said statutory procedures are as follows:

a. Sale of abandoned or unclaimed personal property shall be as provided in N.D. Cent. Code 40-05-02 (20).

b. Sale of unclaimed motor vehicles shall be as provided in N.D. Cent. Code 40-05-15.

1-07-06 Conveyance, Sale, Lease or Disposal of Real Property

Real property belonging to the municipality shall be conveyed, sold, leased, or disposed of only as approved by resolution of the Board of City Commissioners. Instruments effecting such conveyance, sale, lease or disposal shall be valid only when duly executed by the president of the board of city commissioners and attested by the city auditor. When the property to be disposed of is estimated by the Board to be of a value of less than Twenty-five Hundred and no/100

Dollars (\$2,500.00) such property may be sold at private sale or public sale upon proper resolution of the Board. In all other cases, such property may be sold only at public sale. Upon resolution by the Board

GOVERNMENT ORGANIZATION

authorizing the public sale of real property, the place where and the day and hour when the sale will be held shall be published in the official newspaper of the City once each week for two consecutive weeks with the last publication being at least ten days in advance of the date set for the sale. The notice shall specify whether the bids are to be received at auction or as sealed bids as determined by the Board. The property advertised shall be sold to the highest bidder if his bid is deemed sufficient by a majority of the members of the Board. When specific statutory provisions contained in the North Dakota Century Code provide for a procedure which is in conflict with this section governing the conveyance, sale, lease or disposal of real property, this section shall not apply insofar as it is in conflict with such State law. Said statutory procedures are as follows:

a. Lease of airports or landing fields or portions thereof shall be under authority granted in N.D. Cent. Code 2-02-06. Said lease shall further be in compliance with regulations and directives of appropriate federal agencies.

b. Conveyance of right of way for any State highway shall be as provided in N.D. Cent. Code 24-01-46.

c. Leasing of oil and gas lands shall be as provided in N.D. Cent. Code 38-09-02 through 38-09-04 and 38-09-14-through 38-09-20.

d. Conveyance of property to a municipal parking authority shall be as provided in N.D. Cent. Code 40-61-05.

e. Lease of public buildings or portions thereof shall be as provided in N.D. Cent. Code 48-08.

f. Granting of concessions for cafes, restaurants and confectioneries on public buildings and grounds shall be as provided in N.D. Cent. Code 48-09.

g. Granting of right of way for a railway, telephone line, electric light system or a gas or oil pipeline system shall be as provided in N.D. Cent. Code 49-09-16.

GOVERNMENT ORGANIZATION

ARTICLE 8

CITY SALES, USE, AND GROSS RECEIPTS TAX

1-08-01 Definitions

All terms defined in chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code (NDCC), including any future amendments, are adopted by reference. All references to the NDCC include amendments adopted by the North Dakota Legislative Assembly.

1-OS-02 Collection and Administration.

Where not in conflict with the provision of this Ordinance, the provisions of NDCC Chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6 and 57-40.2, and all administrative rules adopted by the Tax Commissioner, pertaining to the collection and administration of the retail sales, use and gross receipts tax, including provisions for liability, refund, penalty, interest or credit, govern the administration by the North Dakota Office of State Tax Commissioner (hereinafter "Tax Commissioner") of the taxes imposed by this Ordinance.

1-08-03 Sales Tax Imposed

Subject to the provisions of NDCC 40-05.1-06, and except as otherwise provided by this Ordinance, or the sales and use tax laws of the State of North Dakota, a tax of two (2%) percent is imposed upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property, within the corporate limits of the city of New Rockford, North Dakota.

1-08-04 Use Tax Imposed.

Subject to the provisions of NDCC 40-05.1-06, and except as otherwise provided by this Ordinance, or the sales and use tax laws of the State of North Dakota, an excise tax is imposed upon the storage, use, or consumption within the corporate limits of the City of New Rockford, North Dakota, of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of two (2%) percent of the purchase price of the property. An excise tax is imposed on the storage, use or consumption within the corporate limits of the city of New Rockford, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in this city at the rate of two (2%) percent of the fair market value of the property at the time it was brought into this city.

1-08-05 Gross Receipts of Alcoholic Beverages.

Subject to the provisions of NDCC 40-05.1-06, and except as otherwise provided by this Ordinance, a gross receipts tax of two (2%) percent is imposed upon all gross receipts from the sale of alcoholic beverages within the city. A person who receives alcoholic beverages for storage, use, or consumption in this state is subject to tax on storage, use or consumption of those alcoholic beverages at the rate of two (2%) percent.

1-08-06 Gross Receipts of New Farm Machinery and New Warm Irrigation Equipment.

Subject to the provisions of NDCC 40-05.1-06, and except as otherwise provided by this Ordinance, a gross receipts tax of two (2%) percent is imposed upon all gross receipts from the sale of new farm machinery and new farm irrigation equipment within the city. A person who receives new farm machinery or new farm irrigation equipment for storage, use, or consumption in this state is subject to tax on storage, use or consumption of that machinery and/or equipment at the rate of two (2%) percent.

1-08-07 Exemptions.

This Ordinance does not provide for any additional exemptions from imposition and computation of the city sales and use tax other than those provided by state law.

1-08-08 Maximum Tax Imposed.

Any patron or user paying a tax imposed by this Ordinance in excess of \$50.00 upon any single transaction of one or more items may obtain a refund of the excess tax payment by filing a request for refund upon the forms provided by the Tax Commissioner.

1-08-09 Contract with Tax Commissioner.

The New Rockford City Auditor is hereby authorized to contract with the Tax Commissioner for administration and collection of taxes imposed by this Ordinance. The City Auditor has all powers granted to the Tax Commissioner and in the absence of a valid contract with the Tax Commissioner or failure of the Tax Commissioner to perform the delegated duties, shall perform these duties in place of the Tax Commissioner.

1-08-10 Dedication of Tax proceeds

All revenues raised and collected under this article, less administrative expenses, shall be placed in a separate sales and use tax fund which shall be dedicated exclusively as follows:

1. Thirty-two percent (32%) shall be dedicated to street, sewer and water improvements.
2. Thirty-two percent (32%) shall be dedicated to economic development.
3. Seventeen percent (17%) shall be dedicated for city parks.
4. Four percent (4%) shall be dedicated to the Fire Department of the City of New Rockford, for their equipment or building fund.
5. Fifteen percent (15%) shall be dedicated to the General Fund.

1-08-11 Effective Date

This article shall be in full force and effect on, from and after July 1, 2008.

CHAPTER 2

ORDINANCES

Article I.

PROCEDURE

2-01-01 Voting, Record of

The yeas and nays shall be taken by the Board upon passage of all Ordinances and on all propositions to create any liability against the City for the expenditure of appropriation of money, and, in all other cases, at the request of any member, which shall be entered on the journal of its proceedings, and the concurrence of a majority of all the members elected shall be necessary to the passage of any such Ordinance or other matter which shall come before it for decision, except as otherwise provided by law or Ordinance. A member of the Board who passes his vote or who remains silent when the roll call on the vote is taken shall be deemed to have voted yea and a record of yea shall be entered in the journal.

2-01-02 Reconsideration or Rescinding Vote

No vote of the Board shall be reconsidered or rescinded at a special meeting, unless, at such special meeting, there is present as large a number of members as was present when such vote was taken.

2-01-03 Procedure in Passing Ordinances

All Ordinances shall be read twice and the second reading shall not be had in less than 1 week after the first reading; and after such reading, before their final passage, such Ordinances may be amended and shall then be put upon their second reading and final passage; except as otherwise specifically provided, a majority of all of the members of the Board must concur in the passage of the Ordinance.

2-01-04 Publication

The title and penalty clause of each Ordinance, imposing any penalty, fine or imprisonment for its violation, after its final adoption, shall be published in one (1) issue of the official paper of the City.

2-01-05 Effective Date

Ordinances adopted and requiring publication shall take effect and be in force from and after publication, unless otherwise provided. Ordinances not requiring publication shall take effect and be in force from and after final approval, unless otherwise provided.

ORDINANCES

2-01-06 Effect of Repeal

When any Ordinance repealing a former Ordinance clause or provision shall be itself repealed, such repeal shall not be construed to revive such form Ordinance, clause or provision, unless it shall be expressly so provided.

2-01-07 General Penalties for Violation

In case no other specific penalty is prescribed for the violation of any section or provision of any Ordinance of the City of New

Rockford, any person found guilty of violating the same shall be punished by a fine of not less than One Dollar (\$1.00) nor more than Five Hundred and no/100 Dollars (\$500.00) or by imprisonment not to exceed thirty (30) days, or both such fine and imprisonment except that any person convicted of shoplifting, vandalism, criminal mischief, or malicious mischief shall be punished by a fine not exceeding One Thousand and no/100 Dollars (\$1,000.00), imprisonment for thirty (30) days or both such fine and imprisonment in the discretion of the municipal judge; the municipal judge to have power to It suspend said sentence, defer imposition of sentence, to revoke the suspension thereof or utilize the sentencing alternative allowed municipal Judge under State law. Each day any person, firm, association or corporation shall violate any section or provision of any article shall constitute a separate offense.

2-01-08 Cost of Prosecution

In every case of conviction of a violation of any Ordinance or any part thereof, the municipal judge may assess the cost of prosecution against the person convicted as part of the punishment.

2-01-09 Judgment on Conviction

In all trials for offenses under the Ordinances of the City of New Rockford, if defendant is found guilty, the municipal judge shall render judgment accordingly.

2-01-10 Commitment of Guilty Person for Nonpayment of Fines or Costs

Any person upon whom any fine or costs, or both, has been imposed for violation of a municipal ordinance may, after hearing, be committed upon order of the court to jailor other place provided by the municipality for the incarceration of offenders until the fine of costs, or both, are fully paid or discharged by labor. The municipal judge may not commit a person under this section when

ORDINANCES

the sole reason for his nonpayment of fine or costs, or both, is his indigency. An order of commitment under this section shall not be for a period in excess of thirty (30) days. As used in this section) "fine" does not include a fee established for violation of city ordinance regulating the operation or equipment of motor vehicles or regulating traffic) except criminal traffic offenses.

2-01-11 Procedure Upon Commitment for Nonpayment of Fines or Costs

If a person is found guilty of the violation of a city ordinance and committed pursuant to 2-01-10, he shall be required to work for the City of New Rockford at such labor as his strength and health will permit, not to exceed eight (8) hours in each working day. For that work, the person shall be allowed for each day, exclusive of his board, Ten and no/100 Dollars (\$10.00) on account of the fines and costs assessed against him.

2-01-12 Refusal to Work

Any person refusing to perform manual labor in accordance with the sentence of the municipal judge, shall be deemed in contempt of Court and shall be punished accordingly. No credit shall be allowed such person on account of such fine and cost for the day or days that such person refuses to perform manual labor in accordance with the sentence of the municipal judge.

CHAPTER 3

PUBLIC PLACES AND PROPERTY

Article I.

CONSTRUCTION AND REPAIR

3-01-01 Supervision

All construction maintenance and repair of public streets, alleys sidewalks and other public ways shall be under the supervision of the city engineer or commissioner of streets and improvements. He shall be charged with the enforcement of all Ordinance provisions relating to such public places (except traffic ordinances) and is hereby authorized to enforce such Ordinances.

3-01-02 Construction and Repair -Permits

It shall be unlawful to construct, reconstruct, alter, grade, or repair any public street, sidewalk, driveway, curbs, gutters, retaining walls, without having first secured a permit therefor. Applications for such permits shall be made to the city auditor and shall state the location of the intended pavement or repair, the extent thereof and the person or firm who is to do the actual construction work. No such permits shall be issued except where the work will conform to the Ordinances of the City.

3-01-03 Specifications

All construction, maintenance and repair herein shall be made in conformity with specifications laid down or approved from time to time by the Board of City Commissioners.

3-01-04 Duty of Owner to Maintain

It shall be the duty of the owner of any property along which a sidewalk has been constructed to maintain the same in good repair and safe condition. Should any such owner fail so to maintain such sidewalks, the city engineer or street commissioner shall direct him to make such repairs as may be necessary to restore such sidewalk to a safe condition. Should he fail, within a reasonable time, to follow the directions of the city engineer or street commissioner, the city engineer or street commissioner shall report the: facts to the Board who shall then proceed as provided in the laws of the State of North Dakota, to make such sidewalk safe.

PUBLIC PLACES AND PROPERTY

3-01-05 Application for Permit

An applicant for a permit hereunder shall file with the city auditor an application showing:

1. Name and address of the owner, or agent in charge, of the property abutting the proposed work area.
2. Location of the work area.
3. Attached plans or sufficient sketches showing details of the proposed alterations.
4. Estimated cost of the alterations.
5. Such other information as the city engineer or street commissioner shall find reasonably necessary to the determination of whether a permit should be issued hereunder.

3-01-06 Fees

The fee for a building permit shall from time to time be established by resolution of the Board of City Commissioners.

3-01-07 Standards for Issuance of Permit

The city engineer or street commissioner shall issue a permit hereunder when he finds:

1. That the work will be done according to the standard specifications of the City for public work of like character.
2. That the operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of ingress and egress to and from the property affected and adjacent properties.
3. That the health, welfare and safety of the public will not be unreasonably impaired.

3-01-08 Sidewalks Built to Grade

All sidewalks shall be constructed in accordance with the elevation and grade therefor to be furnished by the city engineer and shall be constructed under his direction and supervision.

3-01-09 Sidewalk Specifications

All sidewalks hereinafter constructed on any street or avenue of the city of New Rockford shall meet the following specifications:

1. Thickness - 3 1/2 inches
2. Mixture - Two (2) parts sand
Four (4) parts coarse gravel
One (1) part cement or 4 1/2 bags of cement to a yard

PUBLIC PLACES AND PROPERTY

3. Dimensions - 4 x 5 foot cement slabs
4. One-half inch expansion joints every ten (10) feet
5. Finish - Wood float or broom finish

3-01-10 Grade

All sidewalks shall be built upon the established grade of the street and the inside or lot line of all sidewalks shall coincide with the front line of the lot fronting the same, and shall slope one-fourth (1/4) inch per foot from the lot line toward the street.

3-01-11 Specifications

See 12-201 for present width requirements.

3-01-12 Specifications as to Grading, Curbing, Etc.

This section pertains to the grading, curbing, planting of trees, sowing grass seeds and constructing curbs and gutters.

CURB LINES: On all streets and avenues, the curb line shall be placed sixteen (16) feet from the lot line, provided however, that where there has already been constructed curbs in any block the continuation of the curb shall conform to the present curb throughout the block.

SPECIFICATIONS: All curbing constructed in the City of New Rockford shall be constructed of cement and under the direction and supervision of the city engineer or superintendent and according to the plans and specifications now in force, or hereafter adopted by the Board, which plans and specifications are, and will be on file in the office of the city auditor.

COSTS OF CURBING, ETC.: All costs for curbing, grading, planting trees, sowing grass seed and constructing gutters shall be done and performed at the expense of the property owner.

PROPERTY OWNERS TO FILL IN BETWEEN CURB AND SIDEWALK LINE: Within sixty (60) days after the construction of any curb along any property in said City, the owner therefore shall cause the parking between the curb and sidewalk to be properly filled in, graded and seeded to grass. All property along the curbing that has been constructed in the past shall in like manner and within sixty (60) days after the passage of this Ordinance be properly filled in by the owner between such curb line and the sidewalk and be seeded to grass.

PLANTING OF TREES ALONG PARKING ON STREETS: Any property owner or other person shall have the right to plant trees on the parking

PUBLIC PLACES AND PROPERTY

between curb line and the property line, subject to the right of way for sidewalk purposes and as the City Council may direct.

INJURY TO PARKING OR TREES: No person shall have the right to injure the grass, trees or flowers set upon any parking within the said City.

3-01-14 Repairs and Cleaning

Each and every property owner shall keep in repair all sidewalks upon which his property abuts and shall keep the same clear of all snow and ice and obstruction of every kind. Upon the failure of any property owner to repair any sidewalk upon which his property abuts within three (3) days after notice to repair the same, and upon his failure to remove snow and ice or other obstruction from such sidewalk within twenty-four (24) hours after notice to remove such obstruction, the same may be repaired or cleared by the street commissioner or the chief of police and the cost thereof assessed against the property as provided by law. Such notice shall state the name of the owner of the premises, if known, and shall contain a description of the premises by lot number and block number according to the plat; of the city, and shall state what obstructions are to be removed or what repairs are to be made on the sidewalk, and the time within which the same must be done. Said notice shall be served on the owner of the premises personally if he is a resident of the City; but if he is not a resident of the City in which the premises are located, then such notice shall be delivered personally to the occupant of the premises.

3-01-15 Same: Repairs and Cleaning

The owner or occupant of any property in front or along which any sidewalk shall not be in repair, or which sidewalk is obstructed or is covered with snow or ice, who shall fail to repair the same or remove such obstruction or clear the same of ice and snow within the time stated in the notice mentioned in 3-01-14 hereof, after such notice has been served as before mentioned, shall be subject to a penalty of not less than Five Dollars (\$5.00) nor more than Ten Dollars (\$10.00), and a penalty of Five Dollars (\$5.00) for each day thereafter until the same is repaired or such obstruction removed.

Article 2.

USE AND CARE OF STREETS, SIDEWALKS AND PUBLIC PLACES

3-02-01 Obstructions

It shall be unlawful for any person, firm or corporation to cause

PUBLIC PLACES AND PROPERTY

create or maintain any obstruction of any .street, alley, sidewalk or other public way, except as may be specified by Ordinance or by the city engineer or commissioner of streets and improvements.

3-02-02 Encroachments and Trees Projecting Over Streets, Sidewalks and Alleys

It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property. No person, whether the owner or tenant of any property along the public streets, avenues, alleys and sidewalks of the City, shall permit any trees to project over the sidewalk or street, the lower limbs or branches of which shall be less than eight feet in height from such sidewalk and twelve (12) feet in height from such streets and alleys. It shall be the duty of all persons, whether owners or tenants, to keep the trees along the public streets, avenues, alleys and sidewalks adjoining such property owned or occupied by them trimmed at all times in such manner that such trees shall not interfere with travel upon such streets, avenues, alleys and sidewalks, in conformity with the foregoing requirements.

3-02-03 Openings

It shall be unlawful to construct or maintain any opening or stairway in any public street or sidewalk or alley without a permit from the Board. All such lawfully maintained openings shall be guarded by a suitable strong cover or railing to be approved by the commissioner of streets or the city engineer or the official who supervises public improvements.

3-02-04 Wires

It shall be unlawful to erect any poles or wires or maintain any poles or wires over any public place, street, alley or other public way without having first secured permission from the governing body.

Any person or company which maintains poles and wires in the streets, alleys or other public places shall, in the absence of provision in the franchise, concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible and keep all such trees and shrubs near such wires and poles properly trimmed, subject to the supervision of the commissioner of streets and public improvements, so that no injury shall be done to the poles or wires or to the shrubs and trees by their contact.

PUBLIC PLACES AND PROPERTY

3-02-05 Deposits

It shall be unlawful to deposit on any street or public place any material which may be harmful to the pavement or surface thereof or which may do injury to any person, animal or property or render the same unclean or a nuisance.

3-02-06 Burning

It shall be unlawful to deposit on any street or public place any material which may be harmful to the pavement or surface thereof or which may do injury to any person, animal or property or render the same unclean or a nuisance.

3-02-07 Distributing Hand Bills, Etc.

The scattering, throwing, or placing of bills, posters, advertising matter, handbills and other similar matter on lawns, porches, yards, sidewalks, steps, streets, alleys, public ways or in or upon automobiles while parked on the streets, alleys or public ways or public parking lots in the City of New Rockford by any person, firm, co-partnership, association or corporation, is hereby declared to be nuisance and unlawful. Whoever shall paste, stick, nail or post handbills, placards, or posters, or make print or mark any word, letter or advertisement of any kind upon any private house, store or other building or other private property, or who shall paste, stick, nail or post any handbills, placards or posters of any kind, or make, print or mark any word, character or letter upon any public building, bridge, fence, railing or sidewalk or any other property in the City of New Rockford, except in compliance with the requirements of law in posting legal notices and excepting his own property, shall be liable to a fine of not less than Five Dollars (\$5.00) nor more than Twenty Dollars (\$20.00) for each offense.

3-02-08 Miscellaneous -Types of Deposits

a. Substances - No person shall place, deposit or cast or cause to be placed, deposited or cast upon any street, alley or gutter, sidewalk or public ground within the City of New Rockford, any timber, wood, lumber, ashes, rubbish, offal, vegetables, paper, shavings, carcass, earth or any objectionable substance whatever, which may obstruct any such street, alley, gutter, sidewalk (or public ground, or impede, hinder or endanger travel thereon or which shall or may injure or disfigure the same or tend to the injury or disfigurement thereof or tend to render the same unclean or a nuisance; nor shall any person cause or suffer a wagon, carriage, cart, car or other vehicle, or any box, crate, bale, package, merchandise or other thing to stand upon, be in or upon such a street, alley sidewalk or public ground within

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the limits of the City of New Rockford. Nor shall any gate or door be kept or maintained that opens over and crosses the sidewalk.

b. Notice - In case any wood, timber, lumber or rubbish or any material whatever mentioned in the foregoing section, shall be found remaining or lying upon any street, alley or sidewalk or public grounds within the limits of the City of New Rockford in violation of the foregoing section, it shall be the duty of the chief of police, the street commissioner or any public officer of the City of New Rockford forthwith to notify and require by either written or verbal notice, any person who may have placed such substance or thing thereon, or may be the owner, or have control of such timber, wood, lumber or other substances, or who may suffer the same to lie or remain upon such street, alley, sidewalk or other public ground, to immediately remove such thing or substance or cause the same to be removed therefrom; and in case such person or persons shall neglect or fail to remove such substance or thing within one hour after being notified, it shall be the duty of the street commissioner or any police officer to remove the same or cause it to be removed from such street, alley, sidewalk or public grounds to some convenient or safe place within the said City at the expense of such person or persons, to be recovered in an action against them, or him, to be prosecuted in the name of the City, and the person so offending against the provisions of this Ordinance shall also be liable to fine and imprisonment as herein prescribed.

c. Goods - It shall, however, be lawful for any person to place and leave for a period of not exceeding one (1) hour, on three (3) feet of the outer edge of the sidewalk in front of his store or in the alley in the rear of his premises or building, any goods, wares or merchandise which he shall be in the act of delivering or receiving, but such goods shall not be packed or unpacked on the sidewalk or street. Provided, however, that anything in this section shall not be construed to allow the displaying of goods contained in boxes, crates or barrels, or any article or thing unsightly or dangerous to pedestrians or a nuisance.

d. Signs - No owner or occupant of any store, office or other building or other person, firm or corporation shall fix, put up, hand or suffer to remain fixed, put up, hung or erected any show bill, sign, show case, canvass or other thing projecting from any building or store, or hanging over the sidewalk in front of such store, office or other building, except electric signs which may be hung from any building over the sidewalk, signs not to be more than ten (10) feet in length and the bottom of which signs shall be as high above the sidewalk as the ceiling of the first floor of the building to which it is attached, and in no case less than ten (10) feet above the sidewalk; said sign shall be securely fastened to the building by

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chains or braces, under penalty of Five Dollars (\$5.00) fine for every offense and a penalty of Three Dollars (\$3.00) for every forty-eight (48) hours the same shall remain after being ordered to be removed by the chief of police or the city street commissioner; but this section shall not be construed to prevent any merchant or other person from maintaining an awning in front of his place of business extending no further than six (6) feet from his store or building and at least seven (7) feet from the sidewalk to the bottom of the awning; provided, however, that the electric signs may also be placed upon the sidewalk next to the outer edge, if permission is granted to the applicant by the Board of City Commissioners upon the payment of such license as may be required by the Board. Any sign board, swinging sign, show bill, showcase, fixture or thing suspended or placed over, on or upon any sidewalk, alley or public place, except electric signs as heretofore provided, is hereby defined and declared to be a nuisance and the owner thereof or occupant of the house, store or building, in front or rear, on which may be placed the same, or suspended shall within three (3) days after notice to do so, remove and abate the same, in default whereof the Board may cause the same to be abated and removed by the chief of police at the expense of the owner or occupant of said premises; and the person so offending against the provisions of this Ordinance shall also be liable to a fine of Five Dollars (\$5.00); provided that the City Council, by resolution, may permit the erection of a canopy in front of a building.

e. Removal - No person shall injure or tear up any sidewalk or crosswalk, drain or sewer or any part thereof, or dig any hole, ditch or drain in any street, sidewalk or public ground, or remove any gravel, sod, earth or sand from any street or alley without procuring from the street commissioner a permit to do so; provided, however, that the foregoing section shall not apply to the digging of holes as are herein permitted, shall not leave the same open any longer than it is absolutely necessary to plant or set such trees, fences or hitching posts, and shall at all times suitable protect the same.

f. Thrown Objects - No person shall cast or throw, or cause to be cast or thrown, into any drain, street or gutter, within the City of New Rockford, any filthy substance or other substances calculated to cause any obstruction, nuisance or injury in or to the same.

g. Sidewalks - Whenever permission shall be granted by the street commissioner to any person to tear up any of the sidewalks or crosswalks, drain or sewer, dig any hole, ditch or drain as provided in Section 3-01-10, the work shall be done under the supervision of the street commissioner and such sidewalks, crosswalks, drain, sewer or street, alley or public ground shall be restored to as good condition as it was before. The street commissioner shall require a cash deposit in such sum as he deems necessary to guarantee the restoration as aforesaid.

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h. Wires - No person shall cut, remove or break any telephone, telegraph or electric wires properly strung upon poles, running through or across any street in the city of New Rockford for the purpose of moving buildings or for any other purpose, except in case of fire or to prevent the destruction of property, except under express orders of the Board of City Commissioners.

i. Snow - The occupant of every building, tenement or premises fronting-upon any street in the City of New Rockford and the owner of any unoccupied building or premises fronting on such street, shall keep the sidewalk and gutter in front of his premises reasonably free from snow and ice and shall, after and during snowfall, clear the snow from such sidewalks, and on corner lots where premises run to alleys, the owner of such property shall keep one-half of the crossings adjoining said premises free from snow and rubbish.

No person or persons shall within the platted portion of the City of New Rockford erect, construct or maintain any fence or enclosure of any premises, piece or parcel of ground with what is known as barbed wire.

3-02-09 Heavy Vehicles

No person, firm or corporation shall move, or cause to be moved, over the paved streets, sidewalks, crosswalks, culverts, bridges and viaducts within the City of New Rockford any engine, tractor, wagon, truck or other motor vehicle, object, or thing which will tend to injure the paving, crosswalk, culverts, bridge or viaduct over which the same are transported or which exceeds in weight seventeen thousand (17,000) pounds per axle and exceeds four hundred (400) pounds per inch of tire width, or any vehicle, to the wheels of which are attached spurs, bars, angle irons or cleats which will tend to mar or deface the paving, sidewalks, crosswalks, culverts, bridges or viaducts, except under the direction and permission of the Board of City Commissioners, and in addition thereto, shall pay or cause to be paid to the city of New Rockford, upon demand, any and all damages done to the paving, sidewalks, crosswalks, culverts, bridges or viaducts. Provided that when the specified load limits herein contained will cause damage to the City paved streets, the governing body by resolution adopted, and made public, may lower said load limits for such period of time it may deem necessary. The provisions of this section shall not apply to State and Federal Highway through the City.

3-02-10 Removal of Snow and Ice from Sidewalk

It shall be, and hereby is declared to be, the duty of the owner or occupant of each lot in the city of New Rockford to remove from the sidewalk in front of or along the same, any ice or snow which forms,

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accumulates or obstructs such sidewalk, within twenty-four (24) hours after the ice forms, or the snow ceases to fall thereon; provided, however, that where the ice accumulated is of such character as to make the removal thereof practically impossible, the sprinkling of sand, gravel or salt thereon within the time specified, for removal in such manner as to make such sidewalk safe for the travel of pedestrians thereon, shall be deemed a compliance with the provisions of this article.

3-02-11 Removal of Snow and by City

In case the owner of any lot in the City refuses or neglects to remove such ice from such sidewalk in front of or along a lot therein, the ice or snow therefrom within the time above stated or refuses to sprinkle sand, gravel or salt on the same within the time specified for removal in such manner as to make such sidewalk safe for travel of pedestrians thereon, the same may be removed by or under the direction of the city engineer or street commissioner of the City, or sand, gravel or salt sprinkled thereon and the necessary expenses thereof shall be charged against the abutting property by special assessment thereof in the manner prescribed by law.

3-02-12 Street Clean - Snow Removal

Whenever, in the judgment of the Board of City Commissioners or the city engineer or street commissioner of the City, it shall be necessary that streets, alleys or public ways in the City be cleared of snow or ice or be cleaned by the use of street sweepers or other methods of cleaning such streets, or for marking for traffic purposes, the Ordinances of the City regulating the parking of automobiles, trucks and other motor vehicles shall be suspended and it shall be unlawful for any automobile, truck or other vehicle to be parked or left standing between the hours hereinafter mentioned and during the period of time during which the said parking Ordinances are suspended.

3-02-13 Same: Notice

Whenever it becomes necessary to remove snow or ice or to sweep and clean streets, or to mark streets for traffic purposes in the City there shall be designated by the city engineer or street commissioner the area and streets to be cleared of snow or ice or cleaned as afore said and the time during which such snow and ice removal and street cleaning shall be done and posting of such information in the area affected.

3-02-14 Impounding

Whenever any parked automobile, truck, machinery, vehicle or

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equipment shall be found in any place prohibited by these restrictions, and during the hours as provided herein, the same shall, be impounded by the City at a place to be provided and it shall be unlawful for any person, firm or corporation to remove, or attempt to remove, any truck, automobile, machinery, vehicle or equipment from the place where impounded without first paying the cost of such impounding.

3-02-15 Blocking Streets

No driver of any motor vehicle shall stop the same on any street, avenue, lane or alley of the City in such a manner as to hinder or prevent other vehicles or persons from passing at all times, unless in case of absolute necessity, nor shall any driver of any vehicle stop the same at any regular crossing or said street, alley, lane or avenue so as to prevent the free passage of persons traveling or passing on foot.

3-02-16 Excavations - Permit

It shall be unlawful for any person, firm or corporation to tunnel under or to make any excavation in any street, alley or other public place in the City without having obtained a permit as is herein required, or without complying with the provisions of this article or in violation of or variance from the terms of any such permit.

3-02-17 Excavations - Application

Applications for such permits shall be made to the auditor and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefor and the person, firm or corporation : doing the actual excavating work and the name of the person, firm or I corporation for whom or which the work is being done, and shall contain an agreement that the applicant will comply with all Ordinances and laws relating to the work to be done.

3-02-18 Excavations - Fees

The fee for excavation permits shall from time to time be established by resolution of the Board of City Commissioners.

3-02-19 Excavations - Deposit

No such permit shall be issued unless and until the applicant therefor has deposited with the auditor a cash deposit in the sum of \$250.00 dollars if no pavement is involved, and \$500.00 if the excavation is in a paved area, to insure the proper restoration of the ground and laying of the pavement, if any. From this deposit shall be deducted the expense to the City of

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relaying the surface of the ground or pavement and of making the refill, if this is done by the City or at its expense and the balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

3-02-20 Excavations - Manner of

It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefor. Proper bracing shall be maintained to prevent the collapse of adjoining ground; and in excavations the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface.

No injury shall be done to any pipes, cables or conduits in the making of such excavations or tunnels; and notice shall be given to the persons maintaining any such pipes, cables or conduits or to the City department or officer charged with the care thereof, which are or may be endangered or affected by the making of any such excavation or tunnel before such pipes, cables or conduits shall be disturbed.

No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

3-02-21 Excavations - Restoration

Any person, firm or corporation making any excavation or tunnel in or under any public street, alley or other public place in the city, shall restore the surface to its original condition if there is no pavement there. Refills shall be properly tamped down and any bracing in such tunnel or excavation shall be left in the ground.

An opening in a paved or improved portion of a street shall be repaired and the surface re-laid by the applicant in compliance with the Ordinances of the City and under the supervision of the commissioner of streets or city engineer.

3-02-22 Excavations - Supervision

The commissioner of streets or the city engineer shall from time to time inspect or cause to be inspected, all excavations and tunnels being made in or under any public street, alley or other public place in the city to see to the enforcement of the provisions of this article. Notice shall be given to him at least ten hours before the work of refilling any such tunnel or excavation commences.

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Article 3

HOUSE NUMBERING

3-03-01 House Numbering Required

All lots, buildings and structures in the city shall be numbered in accordance with the map and plan showing system of numbering of such buildings now on file in the office of the City Auditor of New Rockford.

3-03-02 Numbers on Houses

It shall be the duty of the owners and occupants of every house in the city to have placed thereon, in a place visible from the street, figures at least two and one-half inches high, showing the number of the house.

Article 4.

UNCLAIMED AND ABANDONED PROPERTY

3-04-01 Unclaimed and Abandoned Property - Defined

Personal property left upon the streets, alleys or other public ways in the City of New Rockford shall be deemed to be unclaimed or abandoned within the meaning of this article when the same is permitted to remain in anyone place upon said streets, alleys or other public ways for a period of ten (10) days or more.

3-04-02 Unclaimed and Abandoned Property - Seizure of

Whenever any unclaimed or abandoned personal property is found upon the streets, alleys or other public ways of the City, the same shall be seized and possession thereof taken by any police officer, street commissioner or other officer of the City.

Unclaimed and Abandoned Property - Holding - Notice of Sale

Such personal property as aforesaid shall be held by the City for a period of not less than ninety (90) days, after its seizure as provided herein, and after the expiration of said ninety (90) days, the city auditor shall cause notice to be published in the official paper of said City, said notice specifying and stating the description of the property so seized and held, the location of the place where the same was seized or taken by said City, and a further notice that said property will be sold, at public auction, to the highest bidder for cash, not less than fifteen (15) days from and after the date of the

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publication of such notice and the hour, date and place where said sale will be held.

Unclaimed - Abandoned Property - Report of Sale

At the time specified in said notice, the said property shall be sold by the chief of police of the City or by any officer designated by him, at public auction, to the highest bidder, for cash, and within three (3) days after the date of said sale, the officer making the sale shall make a report thereof to the governing body, which report shall contain the description of the property sold, the time and place of the sale, the name or names of the purchaser or purchasers and the amount received therefor, said report shall be made under oath and subscribed by the officer making such sale, and shall be filed with the city auditor within three (3) days after the date of such sale, and such officer with said report shall pay to the city auditor the proceeds of said sale;

Unclaimed and Abandoned Property - Bill of Sale

Upon the receipt of the report as specified in Section 3-04-06 hereof, the city auditor shall prepare a bill of sale of the property- sold, conveying the same to such purchaser and the same shall be executed by the President of the Board of City Commissioners and attested by the city auditor and delivered to the purchaser.

Unclaimed and Abandoned Property - Proceeds of Sale

The city auditor shall retain the money as is received from such sale in a separate account for a period of six (6) months from and after the time of such sale, and if the proceeds of such sale are not claimed as hereinafter provided by the owner of said property, the said money shall thereupon be transferred to the general fund of the City.

Unclaimed and Abandoned Property - Redemption

Any person owning such personal property seized as aforesaid, may at any time prior to the sale thereof, upon furnishing satisfactory proof of his ownership thereof to the governing body, reclaim such property upon paying the expenses incurred by the City for the seizure, storage or advertising the sale thereof, and any person owning such property as aforesaid, may at any time within six (6) months after such sale and upon making satisfactory proof to the Governing body of his ownership thereof, claim the proceeds of such sale, upon payment to the City of the necessary expenses incurred by the City for the seizure, storage and sale of said property.

CHAPTER 4

FIRE PREVENTION AND PROTECTION

Article 1.

GENERAL

4-01-01 Removal of Fire Equipment.

No fire equipment shall be taken from the City, except to a fire, without the permission of the Fire Chief.

4-01-02 Private Use of Fire Equipment.

No person shall use or remove any fire equipment for any private purpose without authority from the Fire Chief.

4-01-03 Driving Over Fire Hose

No vehicle shall be driven over any unprotected hose of the Fire Department when laid down on any street or private driveway to be used at any fire or alarm of fire, without the consent of the Fire Department official in command.

4-01-04 False Alarms Prohibited.

No person shall intentionally make or give any false alarm of fire.

4-01-05 Arrests at Fire.

The President of the Board of City Commissioners, the Chief of the Fire Department, and the Police Chief shall, during any fire, arrest any suspected person hindering, resisting, or obstructing any Officer, or conducting himself in a riotous or disorderly manner, and if necessary, detain him in custody or commit him for examination until he can be brought before a competent court or magistrate.

4-01-06 Right of Way.

Any engine, truck or apparatus belonging to or operated by the fire department shall, going to or returning from a fire, have the right of way in all streets, alleys and public places over any wagon, streetcar, automobile or other vehicle of any kind whatever, and any person in charge of any such vehicle must stop the same when necessary to permit any engine, truck or apparatus of the fire department to pass without hindrance or delay.

FIRE PREVENTION AND PROTECTION

4-01-07 Taking Fire Equipment.

No person shall take, receive or attempt to receive or take from the possession and control of any member of the volunteer fire department, any of the apparatus, tools or property belonging to said department without the written consent of the chief of the fire department.

4-01-08 Entering Fire Department.

No person shall occupy any rooms in any building which are used exclusively by the fire department, or enter such rooms or handle any apparatus used by the fire department without permission.

4-01-09 Ownership of Equipment and Buildings.

The City of New Rockford owns the following land and buildings used as a fire hall:

ORIGINAL TOWNSITE, CITY OF NEW ROCKFORD, EDDY CO, NORTH DAKOTA:
Block 17: Lots 30, 31 & 32

The City also owns the following fire trucks:

1942 Chevrolet 11/2 ton Fire Truck
1961 Chevrolet 21/2 ton Fire Truck
1969 Chevrolet 1 ton Step Van - First Aid Equipment
1975 Ford 2 1/2 ton Fire Truck

Article 2

FIRE LIMITS

4-02-01 Fire Limits.

All that portion of the City of New Rockford bounded by the following streets, avenues, alleys and lines is hereby defined and shall be known as and constitute the fire limits of the City of New Rockford:

All that part of the City of New Rockford embraced within the following boundary:

Starting on 2nd Avenue North and 9th Street, thence East to 7th Street, thence South to 1st Avenue North, thence East to 6th Street, thence South to 1st Avenue South, thence West to the alley line of Block 34, Original Townsite, thence South to 2nd Avenue South, thence West to 8th Street, thence North to 1st Avenue South, thence West to 9th Street, thence North to the alley of Block 25, Original Townsite, thence West to 10th Street, thence South to 1st Avenue

South, thence West to the end of Block 1, Haas Addition, thence North to Central Avenue, thence West to 11th Street, thence North to the

FIRE PREVENTION AND PROTECTION

alley of Block 3, West End Addition, thence East to 10th Street, thence North to 1st Avenue North, thence East on 1st Avenue North to Lot 31, Block 15, Original Townsite, thence North along the lot line to alley, thence East to 9th Street, and thence North to 2nd Avenue North, the point of beginning.

4-02-02 Exterior Covering.

It shall be unlawful to construct any building or structure within the fire limits unless the exterior walls and roof thereof are covered or constructed of non-inflammable material.

4-02-03 Repairs.

It shall be unlawful to repair any existing frame building within the fire limits after the same has been damaged by any cause to fifty (50) percent of its value. Any existing frame building in the fire limits, may be brick veneered. Any frame building damaged by fire or otherwise over fifty (50) percent of its value shall be torn down and removed.

Article 3

FIRES IN PUBLIC PLACES

4-03-01 Smoking.

Any person who, by smoking or attempting to light or to smoke cigarettes, cigars, pipes or tobacco in any manner in which lighters or matches are employed, who shall in any careless, negligent or reckless manner whatsoever, whether willfully or wantonly or not, set fire to any furniture, curtains, drapes, household fittings or furnishings whatsoever, in any hotel, public rooming house, tenement house or any public building, so as to endanger life or property in any way or to any extent, shall be guilty of violating this article.

4-03-02 Notice.

A plainly printed notice shall be posted in a conspicuous place in each sleeping room of all hotels, public rooming houses, lodging houses and other places of public assemblage within the City of New Rockford advising tenants of the provisions of this chapter.

4-03-03 Reports.

Every fire of any kind, and from whatever source, occurring in or about any hotel, rooming house, lodging house or apartment hotel in the City of New Rockford shall be reported immediately to the Fire Department.

FIRE PREVENTION AND PROTECTION

Article 4

FIRE DEPARTMENT

4-04-01 Organization of Fire Department.

The Volunteer Fire Department shall be organized and regulated as prescribed by the by-laws of the present New Rockford Volunteer Fire Department. The Volunteer Fire Department shall be Under the special charge of the New Rockford police and fire commissioner.

4-04-02 Police Power of Fire Department.

The Volunteer Fire Department shall have police power to prevent interference or hindrance in the performance of their duties during a fire or when responding to or returning from a fire alarm.

4-04-03 Firemen to Perform Police

In case of riot or any sudden emergency occurring in the City, when the police force needs immediate assistance, the firemen may be called to the assistance of the regular police, and when so employed shall possess all the powers and privileges of the police, and the Board of City Commissioners may furnish the firemen with the necessary equipment and instructions to act in conjunction with the regular police under this provision.

4-04-04 Care of Fire Equipment.

The Fire Department shall have charge and custody of such of the property of said Fire Department as may be delivered to them and shall cause all such fire apparatus to be kept and preserved in the best order for its immediate use, subject to order of the Chief.

40-4-05 Procuring and Repair of Fire Equipment.

The Board of City Commissioners may from time to time procure the necessary fire equipment for the use of the Fire Department and provide convenient places for its keeping. The fire equipment shall be maintained for immediate use. When any fire equipment may need repairs, notice shall be given to the President of the Board of City Commissioners who shall immediately cause all repairs to be made.

4-04-06 Alarms and Signals.

The Fire Department shall adopt rules and directions for giving signals and sounding alarms of fire and have the power to order and change the same from time to time.

4-04-07 Prescribing Limits in Vicinity of Fire.

The commanding officer may, during any fire, prescribe limits in the vicinity thereof in which no person not residing therein or connected with the Fire Department or usually employed in aiding and extinguishing fires shall be permitted to come. The President of the
FIRE PREVENTION AND PROTECTION

Board of City Commissioners may appoint as property guards such number of well-known citizens of the City as may be necessary to aid in guarding and protecting or preserving any property at any fire and the person so appointed shall have and possess the same power as the police officers during the time that they shall act and for which they shall receive such reasonable compensation as the Board may allow.

4-04-08 Hindering or Obstructing Firemen.

No person shall menace, hinder, obstruct, oppose, or without authority give any order to any fireman while on duty, nor shall any person presume to act as a member of the Fire Department of the City until he has been duly elected or appointed or qualified.

Article 5

FIRE PREVENTION CODE

4-05-01 Adoption.

There is hereby adopted by the City of New Rockford for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code recommended by the American Insurance" - Association, successor to the National Board of Fire Underwriters, being particularly the 1965 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, of which code not less than two (2) copies have been and are now filed in the office of the City Auditor and the same are hereby adopted and incorporated as fully as if set out at length herein.

4-05-02 Enforcement.

The Fire Prevention Code adopted by the provisions of this article shall be enforced by the Volunteer Fire Department and its duly elected officers.

4-05-03 Subsequent Editions.

Subsequent editions or revisions of the code adopted by the provisions of this article shall be considered adopted and of full force and effect within the City upon the approval thereof by the Board of City Commissioners and the filing of one (1) copy thereof in

the office of the City Auditor.

4-05-4 Conflicts.

In the event of any conflict between the provisions of the code adopted by this article and applicable provisions of this Code of Ordinances, state law or city ordinances, rules or regulations, the provisions of this Code of Ordinances, state law or city ordinances, rules or regulations shall prevail and be controlling.

FIRE PREVENTION AND PROTECTION

4-05-05 Definitions.

A. Whenever the word "municipality" or the word "city" is used in the code adopted by this article, it shall be construed to mean the City of New Rockford, North Dakota.

B. Whenever the words "corporate counsel" or "city attorney" are used in the code adopted by this article, it shall be construed to mean the Attorney for the City of New Rockford.

C. Whenever the words "Chief of the Bureau of Fire Prevention" are used in the code adopted by this article, they shall be construed to mean the Fire Chief.

D. Whenever the words "Fire Department" are used in the code adopted by this article, they shall be construed to mean the Volunteer Fire Department.

4-05-06 Penalty for Violation.

Any person who shall violate any provision of the ordinance and code adopted by the provisions of this article shall be deemed guilty of an offense.

4-05-07 Amendments to Fire Prevention Code.

The Fire Prevention Code adopted by the provisions of this article is hereby amended, changed, and altered as follows:

No amendments or alterations to date.

4-05-08 Establishment of Limits of Districts in which Storage of Explosives and Blasting Agents is to be Prohibited.

The limits referred to in the Fire Prevention Code, in which storage of explosives and blasting agents is prohibited, are hereby established as follows:

Within the corporate limits of the City of New Rockford.

4-05-09 Establishment of Limits of Districts in which Storage of
Flammable Liquids in
Outside Aboveground Tanks is to be Prohibited.

A. The limits referred to in the Fire Prevention Code, in which

FIRE PREVENTION AND PROTECTION

storage of flammable liquids in outside above ground tanks is prohibited, are hereby established as follows :

B. The limits referred to in the Fire Prevention Code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established as follows:

4-05-10 Establishment of Limits in which Bulk Storage of liquefied Petroleum Gases is to be Restricted.

The limits referred to in the Fire Prevention Code, in which bulk storage of liquefied petroleum gas is restricted, are hereby established as follows:

4-05-11 Establishment of Motor Vehicle Routes for Vehicles Transporting Explosives and Blasting Agents.

The routes referred to in the Fire Prevention Code for vehicles

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transporting explosives and blasting agents are hereby established as follows:

All trucks and other vehicles passing through the City of New Rockford shall use designated truck routes.

4-05-12 Establishment of Motor Vehicle Routes for Vehicles Transporting Hazardous Chemicals or Other Dangerous Articles

The routes referred to in the Fire Prevention Code for vehicles transporting hazardous chemicals and other dangerous articles are hereby established as follows:

All trucks and other vehicles passing through the City of New Rockford shall use designated truck routes. Trucks making a local delivery in the City to a bulk plant shall take the most direct route thereto, using designated truck routes so far as possible.

4-05-13 Modifications.

The Chief of the Bureau of Fire prevention shall have power to modify any of the provisions of the Fire Prevention Code upon application in writing by the owner or lessee, or his duly authorized agent when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief of the Bureau of Fire Prevention thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

4-05-14 Appeals.

Whenever the chief of the Bureau of Fire Prevention shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Bureau of Fire Department to the Board of City Commissioners within thirty (30) days from the date of the decision appealed.

4-05-15 New Materials, Processes, or Occupancies which may Require Permits.

The President of the Board of City Commissioners, the Chief of the Fire Department, and the Building Official shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, and new materials, processes, or

occupancies, which shall require permits, in addition to those now enumerated in said code.

FIRE PREVENTION AND PROTECTION

Article 6

FIREWORKS

4-06-01 Defined

The term "fireworks" shall mean and include any combustible or explosive composition, or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives other than toy paper caps are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, Dago bombs, sparklers or other fireworks of like construction, and fireworks containing any explosive or flammable compound or any tablets or other device containing any explosive substance. Nothing in this section shall be construed as applying to toy paper caps containing not more than twenty-five hundreds of a grain of explosive compound per cap.

Expressly except from the term "fireworks" and expressly permissible for sale and use in this State shall be all fireworks enumerated as ICC Class C, except for fireworks commonly known as bottle rockets. It shall be illegal for any person, business, or organization to sell or discharge bottle rockets within the city limits of New Rockford, North Dakota. Common fireworks as the same as defined in the regulations of the interstate commerce commission and, more specifically, shall include and be limited to the following:

1. Star lights, with wood spike cemented in one end, total pyrotechnic composition not to exceed twenty (20) grams each in weight (10 ball).
2. Helicopter type flyers, total pyrotechnic composition not to exceed twenty (20) grams each in weight
3. Cylindrical fountains, total pyrotechnic composition not to exceed seventy-five (75) grams each in weight. The inside tube diameter shall not exceed three-fourths inch.
4. Cone fountains, total pyrotechnic composition not to exceed fifty (50) grams each in weight.
5. Wheels, total pyrotechnic composition not to exceed sixty (60) grams in weight, for each driver unit, but there may be any number of drivers on anyone wheel. The inside bore of driver tubes shall not be over one-half inch.
6. Illuminating torches and colored fire in any form, total pyrotechnic composition not to exceed one hundred (100) grams each in weight.
7. Sparklers and dipped sticks, total pyrotechnic composition not to exceed one hundred (100) grams each in weight. Pyrotechnic

composition containing any chlorate shall not exceed five (5) grams.
8. Comets and shells, of which the mortar is an integral part,

FIRE PREVENTION AND PROTECTION

except those designed to produce an audible effect, total pyrotechnic composition not to exceed forty (40) grams in weight.

9. Lady fingers (not to exceed seven-eighths of an inch in length or one-eighth inch in diameter, total pyrotechnic composition not to exceed one-half (1/2) gram each in weight.

10. Whistles without report, total pyrotechnic composition not to exceed forty (40) grams each in weight.

4-06-02 Sales to Minors Under Age of Twelve

No person shall sell any of the permissible fireworks enumerated in section 4-06-01 to any person under the age of twelve (12) years

4-06-03 Time of Sale.

No person shall offer fireworks for sale to individuals at retail within the city before the 27th day of June and after the 5th day July in any calendar year. Additionally, during the period of days allowed in each year for the discharge of fireworks, fireworks shall not be set off or discharged after the hour of 11:00 P.M. nor before the hour of 8 A.M. except on the 4th of July, fireworks may be discharged at any hour.

4-06-04 Permit for Public Display.

Nothing in this article shall prohibit the use of a public display of fireworks; provided, that any person prior to making such public display, shall first secure a written permit to do so from the Board of City Commissioners.

4-06-05 Exemptions from Application of Article

Nothing in this article shall prohibit any manufacturer, distributor or jobber from making or selling any kind of fireworks for direct shipment to points outside of the City; provided, that nothing in this article shall prohibit the use of torpedoes, flares or fuses by railroad or other transportation agencies for signal purposes or illumination; provided, further, that nothing in this article shall prohibit the sale or use of blank cartridges for ceremonial purposes, athletic or sporting events.

4-06-06 Manner of Use.

It shall be unlawful for any person to use, discharge or cause to be discharged any fireworks or pyrotechnics of any nature, kind or description whatsoever, at or in the direction of another person or animal or vehicle in which there may be such persons or animals, or in any manner which endangers or injures or is likely to endanger or injure any person or property.

CHAPTER 4

FIRE PREVENTION AND PROTECTION

Article 7.

GENERAL PROVISIONS

<u>Section</u>	<u>Page</u>
04-07-01 Open Burning.	1
04-07-02 Definitions-Recreational Fires.	1
04-07-03 Use, Location, and Maintenance of Recreational Fires.	1-2
04-07-04 Enforcement and Penalties	2
04-07-01. <u>Open Burning.</u>	
1. No person shall set fire to, burn, or cause to be burned any garbage, grass clippings, leaves, paper, rubbish, refuse, brush trimmings, tree trimmings, or any other combustible or flammable materials within the limits of the city.	
04-07-02. <u>Definition-Recreational Fire.</u>	
1. Recreational fires shall be allowed within city limits only as provided in this article. For purposes of this article, the following definitions shall apply:	
a. Recreational fire. Recreational fires are fires established for pleasure or cooking.	
b. Fire pit. A fire pit is any patio fire unit, fire bowl, stove or manufactured container designed to be used outdoors as a location for a recreational fire.	
c. Recreational fire fuel. Recreational fire fuel is limited to firewood, charcoal or factory made logs designed for burning in recreational fires. Garbage, grass clippings, leaves, paper, rubbish, refuse, brush trimmings or tree trimmings shall not be used or burned in recreational fires.	
04-07-03. <u>Use, Location, and Maintenance of Recreational Fires.</u>	

1. A recreational fire shall not be located so that smoke or odor disturbs persons owning properties adjacent to the location of the recreational fire.
2. All fire pits must be used in a manner consistent with the manufacturer's guidelines.
3. The operator of a recreational fire must keep the fire under constant supervision at all times.

04-07-04. Enforcement and penalties.

1. Law enforcement and fire department officials are authorized to order the discontinuance of any fire believed by them to be in violation of this article or any other law or deemed by them to be a safety or health hazard.
2. The penalty for violation of this article is as follows:
 - a. A warning for the first offense;
 - b. A fifty dollar (\$50.00) fine for a second offense; and
 - c. A one-hundred dollar (\$100.00) fine for each subsequent offense.

FIRST READING: October 6, 2014
SECOND READING: November 3, 2014
EFFECTIVE DATE: January 1, 2015

CHAPTER 5

POLICE

Article 1

IN GENERAL

5-01-01 Continuation and Composition.

The police department heretofore created for the City of New Rockford and by this chapter continued shall consist of the chief of police, and as many policemen, policewomen, patrolmen, and officers as may be authorized by the Board of City Commissioners. The police department shall be under the special charge of the New Rockford police and fire commissioner.

5-01-02 Oath and Bond of Officers.

All members of the police department shall take and subscribe the oath and affirmation provided for by law for all officers of the City, and shall give bond in such amount as may be required by the Board of City Commissioners.

5-01-03 Additional Officers.

In case of riot or unusual or general disturbances of the peace, the chief of police shall have power to appoint such other and additional policemen and policewomen as he may deem necessary for the preservation of the public peace.

5-01-04 Special Officers, Appointment and Powers.

At the request of any person, the chief of police may appoint one (1) or more special policemen or policewomen to duty for such person, which special policemen or policewomen shall have all the authority now, or which may be hereafter conferred by law upon policemen, and may make arrangements that such special policemen or policewomen shall be paid by the person requesting the same, and covered by their workman's compensation from the City, and the City shall not be responsible for their negligent or unauthorized acts, this being the responsibility of the person requesting their appointment.

5-01-05 Rules and Regulations.

The chief of police is authorized, subject to approval of the Board of City Commissioners to promulgate such rules and regulations for the government of the officers, men, and women of the police department as are necessary; a copy of such rules and regulations

POLICE

shall be provided for each of the officers, men, and women of the department.

5-01-06 Enforcement of All Ordinances.

It shall be the imperative duty of every member of the police force to be active and vigilant in enforcing the several provisions of all the ordinances of the city and provisions of this Code that may be now or hereafter in force.

5-01-07 Moneys or Property of Persons Arrested.

It shall be the duty of the police department, and of each and every member of the police force) to safely keep all moneys or property which may be found on the person in possession of, or claimed by, any person arrested for crime, and pay or deliver over the same by the order of the municipal Judge, and forthwith after taking the same, to report in writing the kind and amount thereof, to the municipal Judge.

5-01-08 Stolen, Abandoned, Lost Property.

The chief of police shall have the custody of all lost, abandoned or stolen property recovered in the City.

5-01-09 False Alarms - Interference.

No person shall give, or cause to be given, or make, or place or cause to be given, any false report, call or communication of any kind to the police, or any false police alarm with intent to deceive; or tamper with or set off any police alarm or signal box with like intent; or tamper, meddle or interfere with any such police alarm box; or intentionally cut, break, deface or remove any such box or any of the wires or supports thereof, connected with the police alarm system; or intentionally interfere with or injure any property of any kind belonging to or used by the police department; or hinder or delay any apparatus or equipment or vehicle belonging to the police department.

5-01-10 Right of Way.

Any motor vehicle or motorcycle of the police department shall) when going to or returning on business of the department) have the right of way upon giving an audible signal by bell) siren) exhaust whistle or red flashing light. The driver of any other vehicle shall drive to the nearest right hand curb or edge of the road) stop and I remain stopped until the police vehicle shall have passed.

POLICE

Article 2

CHIEF OF POLICE

5-02-01 Scope of Office.

The chief of police shall be a competent and experienced police officer, who shall be the chief executive officer of the police department and responsible for its discipline and efficiency. All orders to the chief of police shall be issued to him from the President of the Board of City Commissioners or the Board of City Commissioners. All orders to the police force shall issue from the chief of police.

5-02-02 Duties Generally.

The chief of police shall perform such duties pertaining to his office as are prescribed by law, this Code, and the ordinances of the city.

5-02-03 Enforcement of Laws and Ordinances.

The chief of police shall devote his time to the discharge of the duties of his office and shall see that all the laws of the state, provisions of this Code and ordinances of the City, the execution of which devolves upon the police force, are fully observed and enforced.

5-02-04 Other Duties.

The chief of police shall perform any other duties and services required of him by the President of the Board of City Commissioners.

CHAPTER 6

BUILDING, ELECTRICAL AND PLUMBING CODES

Article 1

BUILDING OFFICIAL

6-01-01 Building Official - Office Created; Appointment and Tenure; Acting Building Official.

The office of building official is hereby created and the executive official in charge shall be known as the building official.

The building official shall be appointed by the Board of City Commissioners. His appointment shall continue during good behavior and satisfactory service. He shall not be removed from office except for cause after full opportunity has been given him to be heard on specific charges.

During temporary absence or disability of the building official, the appointing authority shall designate an acting building official.

6-01-02 Qualifications.

To be eligible to appointment, the candidate for the position of building official shall be in good health and physically capable of making the necessary examinations and inspections. He shall not have any interest whatever, directly or indirectly, in the sale or manufacture of any material, process or device entering into or used in or in connection with building construction, alterations, removal and demolition.

6-01-03 Duties Generally.

The building official shall receive applications required by this chapter, issue permits and furnish the prescribed certificates. He shall examine premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction is prosecuted safely. He shall enforce all provisions of the Building Code, and shall also enforce the appropriate provisions of the zoning ordinances in Chapter 14, the housing code and dangerous buildings ordinances in Chapter 7 and public nuisances ordinances in Chapter 10 of this code. He shall, when requested by proper authority or when the public interest so requires, make investigations in connection with matters referred to in the Building Code and render written reports on the same. To enforce compliance with law to remove illegal or unsafe conditions to secure the necessary safeguards during construction or to require adequate exit facilities in buildings and structures, he shall issue such, notices or orders as may be necessary.

BUILDING

6-01-03 Inspections Generally.

Inspections required under the provisions of the Building Code adopted by 6-02-01 shall be made by the building official or his duly appointed assistant. The building official may accept reports of inspectors of recognized services, after investigation of their qualifications and reliability. No certificate called for by any provisions of the Building Code shall be issued on such reports unless the same are in writing and certified to by a responsible officer of such service.

6-01-05 Records.

The building official shall keep comprehensive records of applications for permits, of permits issued, of certificates issued, of inspections made, of reports rendered and of notices or orders issued. He shall retain on file copies of required plans and all documents relating to building work so long as any part of the building or structure to which they relate may be in existence.

All such records shall be open to public inspection for good and sufficient reasons at the state office hours, but shall not be removed from the office of the building official without his written consent.

6-01-06 Reports.

The building official shall make written reports to the Board of City Commissioners, when requested, including statements of permits and certificates issued, and order promulgated.

6-01-07 Cooperation of Other City Officials.

The building official may request and shall receive so far as may be necessary, in the discharge of his duties, the assistance and cooperation of other officials of the City of New Rockford.

6-01-08 Right of Entry.

The building official, in the discharge of his official duties and upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour.

Article 2

GENERAL BUILDING CODE

6-02-01 Adoption of Code.

The erection, construction, enlargement, alteration, repair,

BUILDING

moving, removal, demolition, conversion, occupancy, equipment, uses, height, area and maintenance of buildings or structures in the City of New Rockford shall meet with the provisions of the rules and regulations of the North Dakota State Building Code and any future updates and amendments to that code and there shall be one (1) copy of the above Codes on file in the office of the City Auditor and be in full force and effect upon passage of these Ordinances, as fully as if set out at length, and all installations, now existing or hereafter to be made, altered or replaced or repaired, in or upon any building in the City of New Rockford shall comply with said Building Codes. Subsequent editions or revisions of the code adopted by provisions of this article shall be considered adopted and of full force and effect within the City upon approval of the Board of City Commissioners and the filing of one (1) copy thereof in the office of the City Auditor.

6-02-02 Clarification of Code.

For the purpose of clarifying the Building Code adopted above.

1. "Municipality" or "City" shall mean the City of New Rockford.
2. Whenever the Building Code shall conflict with zoning Ordinances, the zoning Ordinances shall govern.
3. Any reference to fire limits within the City shall mean the fire limits set out in Chapter 4.

6-02-03 Fees Under the Building Code shall be as Follows:

The minimum dollar amount needed before an application for a building permit is required will be \$2,500.00 effective August 1, 1997. Building Code fees shall from time to time be established by resolution of the Board of City Commissioners. The building permit fee for any person who completes his or her building project prior to obtaining a building permit shall be increased by \$100.00.

6-02-04 Penalties.

The violation of any of the provisions of this chapter shall be punishable as provided in Chapter 2 of these Ordinances.

6-02-05 Survey Required.

No permit for new construction required by the Building Code shall be issued until the Board of City Commissioners has made a survey of the lot or lots for which a permit has been requested, and has placed stakes outlining the boundaries thereof. Any person who shall move any of such stakes before the foundation has been completed for the structure in which a permit has been requested shall be guilty of an offense.

BUILDING

Article 3

HOUSE MOVING

6-03-01 House Mover - Defined.

Every person who moves, or who agrees or contracts to move, or who is engaged in the moving business or occupation of moving houses and buildings of every kind whatsoever for compensation or for hire, shall be deemed to be a house mover, and engaged in the business and occupation of moving houses and buildings within the meaning and contemplation of this article.

6-03-02 Permit Required.

No structure shall hereinafter be moved from a location either within or without the City of New Rockford to any place, lot or location within the City of New Rockford until a permit has been obtained from the Board of City Commissioners of the City of New Rockford.

6-03-03 Application for Permit.

Application for permit to move such structure shall be made in writing to the Board of City Commissioners of the City of New Rockford and such application shall contain the following information:

- (1) Name of owner of building.
- (2) Name of house mover.
- (3) Permit number held by house mover from the North Dakota Public Service Commission.
- (4) Present location of building.
- (5) Location of premises to which building is to be moved.
- (6) Size, type, and condition of building desired to be moved.
- (7) Use to which building is to be put after it is moved.
- (8) The streets over which said house or building is proposed to be moved, a certificate from the building inspector showing that he has previously inspected the house or building and the requirements for construction, alteration, and repairs necessary to place said building or house in conformity with the building code and other ordinances of the city.
- (9) Such application shall also contain an agreement to be signed by the owner, to the effect that the house or building will be altered and rebuilt to conform with the requirements of the city building code, zoning ordinance, and other city ordinances.
- (10) If said house or building is located within the city, such owner shall also agree that he will remove all rubbish and materials and fill all excavations to existing grade at the

original building site. That the sewer line be plugged and the water service shut off to the satisfaction of the city engineer.

BUILDING

- (11) In addition to the above requirements, before a permit shall issue under this section all delinquent special assessments and real estate taxes shall be paid in full.

6-03-04 Fee and Bond Required.

Such application for permit to move shall be signed by the person desiring the same and shall be filed with the Building Official. The Building Official, before filing the permit shall determine if the house mover is properly authorized and bonded by the Public Service Commission of North Dakota. In addition, the person filing the application for permit shall at the same time deposit with the City Auditor proof of bonding in the amount of Five Thousand and no/100 Dollars (\$5,000.00) guaranteeing that the premises upon which the building to be moved is located shall be cleaned and any hole remaining after moving the building is properly filled in to the satisfaction of the building official and upon certification of the building official to the City Auditor, said bond shall be released.

6-03-05 Publication of Notice; Deposit; Hearings Required:

- (1) Before accepting application for permit to move, the Building Official shall receive from the applicant, in addition to the regular fees, a sum sufficient to pay the cost of publishing notice provided for herein, not exceeding Fifteen and no/100 Dollars (\$15.00); the excess of which shall be refunded to the applicant after the hearing provided for herein.
- (2) After accepting the application for permit to move, the Building Official shall cause to have published in the official newspaper in two successive weeks a "Notice of Hearing on Application to Move Building", which shall contain:
 - (a) Name of applicant;
 - (b) Present location of building;
 - (c) Proposed new location;
 - (d) Date of hearing;
 - (e) Place of hearing;
- (3) The hearing shall be held in the City Hall not less than 15 days nor more than 40 days after the first publication of the notice of hearing.
- (4) At the hearing the Board of City Commissioners shall hear all evidence and argument presented for and against the proposed moving. If such evidence discloses to the satisfaction of the Council that the building, when moved and repaired or altered, and the use thereof, will conform to the Zoning Ordinances, the Fire Ordinances and all other

ordinances of the city, that the moving can be accomplished without damage to the streets, pavement, trees, public utilities, and other property, and that when removal and repairs and alterations have been completed the said building will not cause undue or, serious depreciation of other properties in the new neighborhood, the Board of City Commissioners shall order the Building Official to issue a permit for such moving, subject to such terms and restrictions thereon

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as shall be fixed by the Board of City Commissioners; otherwise the application shall be denied. If deemed necessary by the Board of City Commissioners to assure compliance with any requirements as to repair, alteration, occupancy, or use of the building after its location upon the new site, the Board of City Commissioners may direct the issuance of such a permit only upon the condition that applicant shall first file a bond, with such sureties as the Board of City Commissioners, such bond to be conditioned upon the faithful performance by the applicant of all such requirements.

6-03-06 Blocking of Streets.

No public street or alley in the City of New Rockford shall be blocked for travel nor shall traffic be delayed upon any of the streets by reason of such moving of houses or buildings for a longer period than three (3) consecutive hours.

6-03-07 Frame Building Not to be Moved Into Fire Limits.

No person shall move any frame or wooden building or house into the fire limits of the City of New Rockford; nor shall any frame or wooden building or house be moved from place to place within the said fire limits.

6-03-08 Permission Necessary to Cut Wires and Remove Obstructions.

Whenever it shall be necessary to cut or move any wires or other bodies or obstruction from the course of such building or structure to be moved, the house mover shall procure the necessary permission of the owner or owners, of such property and must pay all costs in connection with such removal and the said house mover must reset or replace any such body or obstruction by him moved immediately if so desired by said owner or owners. Upon payment of or tender of an amount sufficient to pay the reasonable cost of cutting and replacing of any wires or removal and replacing of any such obstruction by such house mover to the owner of such wires or obstruction, such house mover shall thereupon be entitled to have such wires or obstruction cut or removed and to proceed along the course provided for by his permit.

Article 4

ELECTRICAL CODE

6-04-01 Adoption.

There is hereby adopted the state laws and regulations and wiring

BUILDING

standards presently adopted by the North Dakota State Electrical Board and the whole thereof of which not less than one (1) copy on file in the office of the City Auditor, and the same is hereby adopted as fully as if it were set out at length herein.

6-04-02 Subsequent Laws, Regulations and Standard.

Subsequent state laws, regulations and standards adopted by the North Dakota State Electrical Board shall be considered adopted and of full force and effect within the City upon the approval thereof by the Board of City Commissioners and the filing of one (1) copy thereof in the office of the City Auditor.

6-04-03 Conflicts.

In the event of any conflict between the provisions adopted by this article and applicable provisions of this Code of Ordinances, state law or city ordinances, rules or regulations, the provisions of this Code of Ordinances, state law or city ordinances, rules or regulations shall prevail and be controlling.

6-04-04 Definitions.

- A. Whenever the word "municipality" or the word "city" is used in the provisions adopted by this article, it shall be construed to mean the City of New Rockford, North Dakota.
- B. Whenever the words "corporate counsel" or "city attorney" are used in the provisions adopted by this article, it shall be construed to mean the City Attorney of New Rockford.

6-04-05 Penalty for Violation.

Any person who shall violate any provision of the state laws, regulations and standards adopted by the provisions of this article shall be deemed guilty of an offense and shall be punished as provided in section 2-01-07 of this code. Each day such violation continues shall be deemed a separate offense.

Article 5

PLUMBING CODE

6-05-01 Adoption.

To promote and protect the public health there is hereby adopted the North Dakota State Plumbing Code, 1980 edition, as revised, which has been adopted by the State Plumbing Board and approved by the State Health

BUILDING

Department, consisting of rules and regulations governing plumbing work, and the whole thereof, of which not less than one (1) copy is on file in the office of the City Auditor, and the same is hereby adopted as fully as if set out at length herein and all plumbing work in the City of New Rockford shall comply with said code.

6-05-02 Subsequent Editions.

Subsequent editions or revisions of the code adopted by the provisions of this article shall be considered adopted and of full force and affect within the City upon the approval thereof by the Board of City Commissioners and the filing of one (1) copy thereof in the office of the city Auditor.

6-05-03 Conflicts.

In the event of any conflict between the provisions of the code adopted by this article and applicable provisions of this Code or Ordinances, state law or city ordinances, rules or regulations, the provisions of this Code of Ordinances, state law or city ordinances, rules or regulations shall prevail and be controlling.

6-05-04 Definitions.

- A. Whenever the word "municipality" or the word "city" is used in the code adopted by this article, it shall be construed to mean the city of New Rockford, North Dakota.
- B. Whenever the words "corporate counsel" or "city attorney" are used in the code adopted by this article, they shall be construed to mean the City Attorney of New Rockford.

6-05-05 Enforcement of Chapter Provisions.

All plumbing and all private sanitary drains and cesspools now existing, or hereafter to be installed, altered or repaired, in any building or in or under any private property within the corporate limits, shall be under the supervision and regulation of the street commissioner, whose duty it shall be to enforce all the provisions of this chapter relating thereto and from time to time to make such rules and regulations as may be appropriate for the execution of the same.

6-05-06 Changes in Existing Installations.

The street commissioner is hereby given authority to order the repair, alteration or removal of any sanitary sewer connection or plumbing, any connection to storm water sewer or any private sanitary drain, cesspool or privy, which in his judgment is so installed, or in such condition as to

BUILDING

be unsanitary or to constitute a public nuisance or menace to health. In case such repair, alteration or removal of the plumbing code is not observed and connections not properly executed by the owner or owners thereof, in accordance with his directions, he may cause the same to be discontinued from any source of water supply. It shall thereafter be unlawful for any person in any manner to use any such installation or to supply water thereto, until the same shall have been put in a safe and sanitary condition according to his directions.

6-05-07 New Installations.

All plumbing work and all excavations in the public streets or alleys, the cutting and replacing of pavement, laying of water and sewer connections, and connections to storm water sewers, and all construction of private sanitary drains, and cesspools within the corporate limits, shall be undertaken and executed only by a master plumber, or other persons, as have obtained a general license for such work, together with a permit for each separate job, provided that the tapping of water mains and the placing of corporate cocks therein shall be done only by the City employees.

6-05-07 When Plumbing Fixtures Required.

It shall be unlawful for any person to construct any building intended for human habitation, including dwelling, tenements, apartments, hotels, lodging houses, dormitories or club houses, or intended to be used as a theatre or assembly hall, or as an office building, shop or factory or to convert any building to such use or to occupy any building for such purpose, unless the same be connected to both the sewer and water systems of the City, where such building or other structure is situated not more than twenty-five (25) feet from such sewer system and not more than a like distance from such water system, and unless there are installed within the building or other structure, in accordance with the provisions of this article, the following sanitary fixtures, together with the plumbing necessary thereto.

6-05-09 Penalty for Violations.

Any person who shall violate any provision of the code adopted by the provisions of this article shall be deemed guilty of an offense and shall be punished as provided in section 2-01-07 of this code. Each day such violation continues shall be deemed a separate offense.

CHAPTER 7

HEALTH

Article 1

BOARD OF HEALTH

7-01-01 Members.

The Board of Health shall consist of the Board of City Commissioners and the City Physician, who shall be appointed by the Board of City Commissioners and have and exercise all powers under the law.

7-01-02 Regulations, Notice

Notice shall be given by the Board of Health, pursuant to the laws of the State of North Dakota of all general orders and regulations made by such board, by publishing the same in the official City newspaper within the jurisdiction of the board, which publication shall be deemed a legal notice to all persons.

7-01-03 Jurisdiction.

The Board of Health shall exercise a general supervision over the health of the City with full power to take all steps and use all measures necessary to promote the cleanliness and salubriousness thereof; to prevent the introduction into the City of malignant, contagious, or infectious diseases, and to remove or to otherwise take care of any person attacked by any such disease, and to adopt in reference to such person any regulations, restrictions, or measures deemed advisable, and to establish rules for the government of the City quarantine hospitals.

7-01-04 Powers and Duties of City Physician.

The city physician, subject to the approval of the city board of health, shall provide such additional rules and regulations as may be proper and necessary for the preservation of the health of the people of the city of New Rockford, to prevent the spread of contagious diseases, and to cause the removal of all objects to the detriment of the health of such people, and he shall enforce all rules and regulations for the protection of the public health. All rules and regulations prepared by him shall be submitted to the board of health and if approved by it shall have the force of a city ordinance. The city physician from time to time shall make such recommendations to the board of health as to him shall appear necessary for the preservation of the public health.

HEALTH

7-01-04 Powers and Duties of Board of Health.

The board of health shall have the following powers and duties within its jurisdiction:

1. To employ such persons as may be necessary to carry into effect the regulations established by it and the provisions of this title.

2. To inquire into all nuisances, sources of filth, and causes of sickness, and make such regulations regarding the same as are necessary for the public health and safety, but the regulations of the township board of health shall be temporary, and such board, immediately upon taking such action, shall report the same to the county superintendent of public health, who shall give the board specific instructions or take such action as he deems necessary for the protection of public health.

3. To adopt such quarantine and sanitary measures as are necessary when an infectious or contagious disease exists in its jurisdiction

4. To provide such necessities of life as in its judgment shall be needed for the maintenance, welfare, and comfort of persons afflicted with contagious and infectious diseases.

5. To enter into and examine at any time all buildings, lots, and places of any description within its jurisdiction for the purpose of ascertaining the conditions thereof insofar as public health may be affected.

6. To make such rules and regulations as are necessary and proper for the preservation of public health and safety.

7-01-06 Duty of Police, Civil Officers, and other Citizens to Aid City Physician.

All members of the police force of all magistrates and other civil officers thereof, and all citizens, shall aid the city physician in the discharge of his duties, and on his demand, the chief of police shall serve, or detail one or more policemen to serve, the notices issued by the city physician and to perform such other duties as he may require.

7-01-07 Report of Health Activities by Health Officer and City Physician.

The city physician shall report to the state department of health on or before the fifteenth day of January in each year, on blanks furnished by the department for that purpose, all health activities in his jurisdiction during the calendar year just ended.

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Article 2

GARBAGE COLLECTION

7-02-01 Division of Sanitation Established.

A division of Sanitation of the Street Department of the City of New Rockford, shall be charged with the responsibility of carrying out the provisions of this chapter, and shall supervise the garbage and rubbish collection system and the Sanitary Land Fill. The Board of City Commissioners shall prescribe and publish such rules and regulations in connection with the preparation, handling, and disposing of garbage and rubbish as it shall consider necessary and shall be authorized to approve contracts with persons, firms, and corporations for the collection, hauling, and disposal of garbage and rubbish.

7-02-02 Collection and Disposal Compulsory.

In the interests of protecting the public health and sanitation, it is the intention hereof to make the collection, removal, and disposal of the garbage and rubbish within the City of New Rockford compulsory and universal and to fix charges therefor commensurate with the cost of collecting and disposing of the same.

7-02-03 Definition.

Garbage, as the term is used in this chapter, shall include all of accumulations of household waste matter, including dry kitchen refuse, meat, vegetable, and the fruit refuse and all tin cans, Rubbish, as the term is used in this chapter, shall include bottles, glass, scraps of iron, tin, wire, or any other metals, lawn clippings, rags, old clothing, paper containers, old rubber, pieces of wood, boxes, barrels, crates, feathers, weeds, grass, tree limbs, and similar accumulations.

7-02-04 Garbage Cans.

Each property owner or occupant within the City of New Rockford shall furnish and keep one or more garbage cans. The garbage cans will be a commercial made metal or plastic container of not more than thirty-two (32) gallons capacity with tapered sides and equipped with tight fitting tops. In the case of buildings containing three (3) or more apartments, garbage cans must be furnished by the owner of the building. Garbage cans shall be kept at a place easily accessible for emptying by the person or firm charged with the responsibility of collecting and hauling garbage and rubbish.

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7-02-05 Garbage Preparation.

All kitchen garbage shall be drained of excess water and shall be wrapped in paper before being placed in garbage cans. All garbage must be placed in garbage cans for collection. Likewise, rubbish may be placed in garbage cans for collection unless the same is too bulky for storage therein awaiting collection, in which event such rubbish must be placed in a convenient spot for collection. Provided further, that rubbish to be collected must be securely fastened into bundles of not more than five (5) feet in length and not weighing more than sixty-five (65) pounds.

7-02-06 Frequency of Collection.

All garbage and rubbish from the entire City of New Rockford shall be collected by the City as frequently as is necessary to maintain and preserve the health of the community, except that this ordinance shall not require the collection of garbage and rubbish where the streets or alleys are in a temporary condition which makes it impossible to do so, and in case of the failure to collect such garbage such failure shall not relieve the occupant of the premises from the payment of the garbage and rubbish collection fees hereinafter provided.

7-02-07 Collection Fees.

Collection fees of such garbage and rubbish, and the disposal thereof, shall from time to time be established by resolution of the Board of City Commissioners.

7-02-08 Failure to Pay.

If the collection fees so established are not paid when due, such sum may be recovered by the City of New Rockford, North Dakota in an action at law against the owner or occupant, or both, of the property so served and may be assessed against the premises served, and collected and returned in the manner as other county and Municipal taxes are assessed, certified, collected, and returned.

7-02-09 Failure to Receive Disposal Service

No person within the City of New Rockford shall be permitted to refuse to accept such garbage and rubbish service, and the failure of any person to receive such service shall not exempt him from the payment of the charges hereinbefore set forth, save and except only those persons residing in areas in which no garbage and refuse collection service is provided for the entire area, and in such areas where no service is rendered, no charges shall be made. Nothing herein contained shall prevent non-residential establishments from hauling by private or commercial haulers, but every non-residential

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establishment which accumulates garbage or rubbish for disposal must have the same collected and hauled by either the city or a private or commercial hauler or must itself dispose of such garbage or rubbish, and all provisions of this article, except as herein stated, shall apply to non-residential establishments, it being the intent hereof that non residential establishments must maintain their premises in a sightly and sanitary condition regardless of whether garbage and rubbish therefrom is collected by the city or otherwise.

7-02-10 Proceeds.

The proceeds from the collection of fees and charges hereinbefore set forth shall be placed in the Utilities Fund of the City of New Rockford, and all expenses of the City of New Rockford in the collection and disposal of garbage and rubbish shall be paid out of such fund.

Article 3

GARBAGE DISPOSAL

7-03-01 Disposal Grounds - Established.

The grounds for the disposal of garbage and refuse shall be as determined by the Board of City Commissioners from time to time. The use of such grounds shall be permitted under such rules and regulations as adopted by the City.

7-03-02 Covered Hauling.

No person shall haul or transport garbage, refuse, or rubbish to the City's disposal grounds unless they shall do so in a vehicle which will not permit any of such garbage, refuse, or rubbish to seep, spill, leak, blow, drop off, or fall to the streets, roads, or high-ways leading to such disposal grounds.

7-03-03 Burning Garbage or Refuse.

No person shall burn or cause to be burned any paper, garbage, excelsior, straw, hay, leaves, brush, weeds, dry grass, shavings, rags, barrels, boxes, crates, lumber, or other combustible materials or refuse materials in the streets, or alleys, or on private property within the City, except in an incinerator approved by the Fire Department.

7-03-04 Fees.

It shall be unlawful for any person, firm, or corporation to dump refuse, garbage, or other waste material on the sanitary land fill disposal site operated by the City of New Rockford, unless the HEALTH

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proper fee shall be first paid to the attendant at said sanitary land fill disposal site, prior to entrance thereto, by those using various equipment to haul thereon. The fee for services of the City garbage disposal system shall from time to time be established by resolution of the Board of City Commissioners.

7-03-05 Penalty.

Any person, firm, or corporation making any unauthorized use of the sanitary land fill disposal site shall be liable for a fine of not less than Ten and no/Dollars (\$10.00) and not more than One Hundred and no/100 Dollars (\$100.00), or by confinement in the City jail for a period not exceeding thirty (30) days, or both.

Article 4

MINIMUM HOUSING CODE

7-04-01 Purpose.

The purpose of this Housing Code shall be to provide guidelines for the enlargement, alteration, repair, locations and use of any building, structure, or parts thereof used and occupied for human habitation, or intended to be so used, and includes appurtenances and utilities belonging thereto, located within the city limits of New Rockford.

7-04-02 Definitions.

The following definitions shall apply to the interpretation and enforcement of this article.

a. Basement shall mean a story of a building located partly underground but having less than two-third (2/3) of its clear floor-to-ceiling height below outside grade.

b. Ceiling shall mean the interior overhead surface of a room.

c. Cellar shall mean a story of a building located partly or wholly underground and having more than two-thirds (2/3) of its clear floor-to-ceiling height below outside grade.

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d. City Physician shall mean the legally designated health authority of the City or authorized representative.

e. Dwelling shall mean any building, structure, or parts thereof used and occupied for human habitation, or intended to be so used, and includes appurtenances and utilities belonging thereto or usually enjoyed therewith.

f. Dwelling unit shall mean any room or group of rooms located within a building forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating purposes.

g. Extermination shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places by depriving or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or any other recognized and legal pest elimination methods approved by the city health officer.

h. Family shall mean one or more persons occupying a dwelling or dwelling unit and living as a single non-profit unit.

i. Garbage shall mean the animal and vegetable wastes resulting from handling, preparation, cooking and consumption of food.

j. Habitable room shall mean the presence, within or around a dwelling, of any insects, rodents or other pests.

k. Infestation shall mean the presence, within or around a dwelling, of any insects, rodents or other pests.

l. Meaning of certain words. Whenever the words dwelling, dwelling unit, rooming house, rooming unit or premises are used in this article, they shall be construed as though they were followed by the words "or any part thereof". Whenever the masculine pronoun is used it shall also mean the feminine pronoun.

m. Multiple dwelling shall mean any structure or building containing more than one (1) dwelling unit.

n. Occupant shall mean any person, over one (1) year of age, living, sleeping, cooking, eating in or having actual possession of a dwelling or dwelling unit or rooming unit.

o. Operator shall mean any person who has charge, care or control of a building, or parts thereof, in which dwelling units or rooming units are let.

p. Owner shall mean any person who alone, jointly or severally with others: (a) shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or (b) shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of owner, as an executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of the rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

q. Person shall mean and include any individual, firm, corporation, association or partnership.

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r. Plumbing shall mean and include all of the following supplied facilities and equipment; gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

s. Repair shall mean to restore to good condition.

t. Rooming house shall mean a dwelling in which more than two (2) rooms are let for hire, or more than four (4) persons are given lodging for compensation.

u. Rubbish shall mean combustible and noncombustible materials, except garbage, and the terms shall include the residue from the burning of wood, coke, and other combustible material such as paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, glass, crockery and dust.

v. Substandard shall mean any dwelling, dwelling unit or premises violating any provisions of this article.

w. Supplied shall mean paid for, furnished or provided by or under the control of the owner or operator.

x. Temporary housing shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system and located on the same premises for more than thirty (30) consecutive days.

7-04-02 Inspections Authorized.

The city building official is hereby authorized and directed to make inspections to determine the conditions of all dwellings, dwelling units, rooming units and premises located within the City in order that he may perform his duty of safeguarding the health and safety of the occupants of such dwellings and of the general public.

For the purpose of making such inspections the city building official is hereby authorized to enter, examine and survey at reasonable times all dwelling units, rooming units and premises.

The owner or occupant of every dwelling, dwelling unit, rooming unit or the person in charge thereof shall give the city building official access to such dwelling, dwelling unit, rooming unit and its premises, at reasonable times for the purpose of inspection.

Each occupant of a dwelling or dwelling unit shall give the owner thereof or his agent or employee, access to any part of such dwelling, dwelling unit or its premises at a reasonable time for the purposes of making repairs and/or alterations as are necessary to effect compliance with the provisions of this or any lawful order issued pursuant to the provisions of this article.

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7-04-03 Minimum Requirements for Dwelling Units.

No person shall occupy as an owner, occupant, or let to another for occupancy any dwelling unit for the purpose of living, sleeping or eating therein, which does not comply with the following requirements:

A. Lighting and Ventilation

1. Each habitable room, including toilets and bathroom shall have not less than one (1) window.
2. Every public hall and stairway in every two-family dwelling, multi-family dwelling and rooming house shall be adequately ventilated.
3. The city building official, upon presentation of plans and specifications for a mechanical ventilation system showing that the same provides fresh air equivalent to or better than which would be provided by the window installation provided in subsection 1 above, may authorize the use of such mechanical ventilation system in lieu thereof. Any such mechanical ventilation system shall be maintained in good working and operating condition at all times.
4. The windows in all habitable rooms shall open directly upon a yard, alley, street or court. In case of windows on courts, there shall not be less than three (3) feet of clear space between the outside of the windows and property line.
5. All windows, doors and other apertures opening to the outside or to other unscreened areas shall be equipped with screens of Number 16 mesh or finer and the same shall be installed and maintained with no loose frames or edges and free from breaks and tears. During the fly season, such screens being installed from May 9 to October 1 of each year.

B. Electrical Facilities.

1. Electrical lighting fixtures. Every public hall and stairway in every two-family dwelling, multifamily dwelling and rooming house shall be adequately lighted at all times, except that such lighting system be turned off by conveniently located switches during the daylight hours.
2. Every dwelling within three hundred (300) feet of a power line shall be supplied with electricity.
3. Every existing habitable room shall contain at least two (2) separate floor-to-wall type electrical convenience outlets and one (1) ceiling type electrical light fixture. Every kitchen shall contain two twenty (20) amp outlets.

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4. Every water closet compartment, bathroom, laundry room, furnace room and public hall shall contain at least one (1) supplied ceiling or wall type electricity light fixture.
5. Every outlet and fixture shall be properly installed and maintained to a good working condition.

C. Plumbing and Sewage

1. Each dwelling unit shall be provided with not less than one (1) kitchen sink properly connected to an approved water supply and a sewage system, all in good working condition. Each dwelling unit shall have access to a full bathroom. A full bathroom shall consist of at least one (1) stool, one (1) lavatory, one (1) bathtub or shower; not more than two (2) dwelling units or eight (8) persons may share one full bathroom. Each bathroom shall be enclosed by walls ceiling and doors to afford privacy.
2. All joints, pipes, valves and connections of all plumbing and sewers shall be installed in accordance with the State Plumbing Code and be maintained in good working condition.
3. The sink, tub bath or shower bath and flush type water closet herein required shall be accessible without leaving the shelter of the roof of the building in which the dwelling unit is located and without passing through any other dwelling unit.
4. Floors and walls in any room where the required sink, bathtub or shower bath and flush type water closet are installed, shall be built and maintained so as to be reasonably impervious to water.
5. Every kitchen sink, lavatory, shower or bathtub and basin shall be connected to both hot and cold running water and the hot water heating facilities shall be capable of providing hot water at least 120° F. at each required hot water faucet.

D. Heating

1. Every dwelling or dwelling unit shall have heating facilities which are properly installed, maintained in safe and good working conditions, and be capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments located therein to a temperature of at least 68° F at a distance of three (3) feet above the floor level, under ordinary minimum winter conditions.

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E. General Conditions

1. Every foundation, floor, wall, ceiling, and roof shall be reasonably weather-tight, rodent-proof and shall be capable of affording privacy and shall be kept in good repair.
2. Every window, exterior door and basement hatchway shall be reasonably weather-tight, water-tight, rodent-proof, and shall be kept in sound working condition and good repair.
3. Yards adjacent to any dwelling shall be graded to drain water off the lot or into a drainage system on the lot; no standing or stagnant pools of water shall be permitted on any yard or lot.
4. Every supplied facility, piece of equipment or utility which is required under this article shall be so constructed or installed that it will function safely and effectively and shall be maintained in a satisfactory working condition.
5. No owner, operator or occupant shall cause any service facility, equipment or utility which is required under this article to be removed from, shut off or disconnected in any occupied building or dwelling unit except for such temporary interruption as may be necessary while actual repairs or alterations are in the process or during temporary emergencies.
6. Porches, exterior stairways, steps, walkways and sidewalks shall be in good repair and free from hazards.
7. Out buildings, retaining walls, fences and accessory buildings shall comply with the provisions of this article regarding repair, maintenance and usage.
8. Every dwelling unit shall be provided with approved, safe and unobstructed means of egress and shall comply with the applicable provisions of the City Building Code and the fire Prevention Code and the rules and regulations adopted pursuant thereto.
9. Dwelling units shall have access available to bedrooms or bathrooms through hallways or other means to assure the privacy of the occupants.

7-04-04 Dwelling Unit Unfit For Human Habitation.

The city building official shall determine that a dwelling is unfit for human habitation or a building is substandard, if he finds that any of the following conditions exist:

1. Building supporting members which show thirty-three (33) percent or more of damage or deterioration.
2. Buildings that have interior or outside walls or coverings which show fifty (50) percent or more damage or deterioration.
3. Buildings which have floors or roofs with improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used or such framing

members deflect over $1/360$ of the span.

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4. Buildings which have been damaged by fire, wind or other causes that endanger the lives, safety or welfare of the occupants or other people of the City.

5. Buildings which are dilapidated, decayed, unsanitary or in disrepair which are likely to cause sickness or disease, or to cause injury to health, safety or welfare of the occupants or to other people of the City.

6. Buildings in which each living unit does not have safe and unobstructed means of egress leading to a safe and open space at ground level as required by the city Building Code.

7. Buildings which have defects therein increasing the hazards of fire, accidents, or other calamities such as lack of adequate ventilation, light, heating or sanitary facilities as endangering the health, morals, safety or general welfare of the occupants or other residents of the City.

8. Buildings which are in violation of any provisions of the building regulations, fire prevention or ordinances of the City.

9. Buildings in which the interior walls, ceilings and floors of all habitable rooms are not of durable material, in good repair and well painted.

10. Buildings in which the exterior walls are not covered with an approved type of sheathing, stucco, brick or other recognized type of material in good repair.

11. Buildings or premises that violate any ordinance of the City relative to sanitation and safety.

12. Dwelling units in which the bedrooms or bathrooms are not available through hallways or other means to assure the privacy of the occupants.

7-04-05 Rooming Houses.

No person shall operate or permit to be occupied a rooming house which does not comply with the following requirements:

Applicability of Previous Sections and Subsections. The provisions of this article shall be applicable to each rooming house and rooming unit. For the purpose of this section whenever in the above mentioned section the term "dwelling" is used, it shall be construed to mean "rooming house" and whenever the term "dwelling unit" is used, it shall be construed to mean "rooming unit".

7-04-07 Basement -Cellars.

No basement or cellar space shall be used for a dwelling unit or habitable room unless:

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1. The floors and walls are damp-proofed and impervious to leakage of underground or surface moisture and insulated against dampness.

2. Total of the window area in each room is equivalent to ten (10) percent of the floor space of such room, or no less than that considered adequate and reasonable as compared to the floor space of such room.

3. The total operable window area for ventilating each room is equivalent to at least five (5) percent of the floor space of such room, or where there is supplied some other device affording equivalent ventilation and approved by the city health officer.

4. Every window which is below the grade of the ground adjoining such window shall have light wells or areaways extending at least twenty (20) inches out from said window throughout the entire width of the window.

5. Walls, ceilings and floors of the basement rooms shall comply with Items A, B, C, D and E of Section 7-04-04 of this article.

7-04-08 Responsibility of Owners and Occupants.

1. Every owner of a dwelling or dwelling unit containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises.

2. Every occupant of a dwelling or building shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof, which he occupies and controls.

3. Every occupant of a dwelling or dwelling unit shall dispose of all rubbish in a clean and sanitary manner by placing it in the rubbish containers as required by City ordinance.

4. No owner shall occupy or let to any other occupant any vacant dwelling unit unless it is clean, sanitary, fit for human habitation, and not in violation with this article.

5. Every occupant of a dwelling or dwelling unit shall dispose of all garbage and any other organic waste which might be food for rodents, in a sanitary manner by placing it in the garbage disposal facilities or garbage storage containers as required by City Ordinance. It shall be the responsibility of the owner to supply such facilities or containers for all dwelling units in a dwelling containing more than two (2) dwelling units and for all dwelling units located on the premises where more than two (2) dwelling units share the same premises. In all other cases, it shall be the responsibility of the occupants to furnish such facilities or containers.

6. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or the pests therein or on his premises; and every owner of a dwelling or building containing more than one (1) dwelling unit shall be responsible for such extermination whenever a dwelling unit within such building shall become infested.

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7-04-09 Duties of Occupants.

It shall be the duty of every occupant of a dwelling to:

1. Keep the dwelling unit and grounds pertaining to it in a clean and sanitary condition, free from fire hazards, free of rodents, household pests and vermin harborage.

2. Keep all plumbing in reasonably good working order and free of obstruction.

3. Provide sound and tight garbage, rubbish and ash containers when the same are not supplied by the owner, and keep all containers by whomever supplied in a clean and sanitary condition.

4. Comply with the requirements of this article when the duties mentioned therein fall on the occupant.

5. Comply with the occupancy for overcrowding requirements and limitations of this article.

7-04-10 Occupancy and Overcrowding.

No owner or occupant shall permit overcrowding in any dwelling unit or portion thereof as determined and measured by the following standards:

1. Every dwelling unit shall contain at least one hundred sixty (160) square feet of space for the first occupant and at least one hundred (100) square feet for each additional occupant.

2. No sleeping room shall have a floor area of less than eighty (80) square feet.

3. The total of all habitable rooms in a dwelling unit shall be such as to provide at least one hundred (100) square feet of floor area per person of the family over twelve (12) years of age and at least fifty (50) square feet of floor area per person of the family under twelve (12) years of age.

4. In computing the floor area under this section, only those portions of the floor having a ceiling height of at least seven (7) feet six (6) inches in height shall be included.

7-04-11 Applicability of the City Building Code.

Whenever the provisions of this article require the construction, installation, alteration, repair of a dwelling or dwelling unit, or its facilities, utilities or equipment, the required work shall be done in full compliance with the applicable provisions of the City Building Code.

7-04-12 Substandard Buildings or Dwelling Units, Nuisance

Any buildings or dwelling units which violate the terms of

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Sections 7-04-04, 7-04-05, 7-04-06, 7-04-07, 7-04-08 and 7-04-10 of this article are hereby declared a public nuisance and dangerous to public health shall be repaired, vacated, demolished, or said violations discontinued as provided in Section 10-03-02, substandard and dangerous buildings.

7-04-13 Where Owner Absent from the City.

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the City, all notices and orders provided for herein, shall be sent by registered or certified mail to the owner, occupant, mortgagee and all other persons having an interest in said building as shown by the land records of the Register of Deeds of Eddy County to the last known address of each and a copy of such notice and order shall be posted in a conspicuous place on the "substandard building" to which it relates, such mailing and posting shall be deemed adequate service.

7-04-14 Emergency Action by the City Building Official.

Whenever the city building official finds that an emergency exists which requires immediate action to protect the public health, he may without notice of hearing issue an order reciting the existence of such emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this Chapter, such order shall be effective immediately. Any person to whom an order is directed shall comply therewith immediately, but upon petition to the City shall be afforded a hearing as soon as possible, in the manner provided in Section 7-04-12. After such hearing, depending upon the findings as to whether the provisions of this article have been complied with, the Board shall continue such order in effect, or modify it, or revoke it.

7-04-15 Enforcement of Interpretation.

This article shall be enforced by the city building official in accordance with the provisions of this article.

7-04-16 Penalties.

Any person who violates any provisions of this Ordinance shall be fined not more than Five Hundred and no/100 Dollars (\$500.00) or by imprisonment not to exceed thirty (30) days or by both such fine and imprisonment, at the discretion of the Municipal Judge. Each and every violation of the provisions of this article shall constitute a separate offense.

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7-04-17 Unconstitutionality Clause.

Should any section, paragraph, sentence, clause or phrase of this article be declared unconstitutional or invalid for any reason, the remainder of this article shall not be affected thereby.

Article 5

DANGEROUS BUILDINGS

7-05-01 Dangerous Buildings Defined.

All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings".

a. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

b. Those, which exclusive of the foundation, show thirty-three (33) percent or more, damage or deterioration of the supporting member or members, or fifty (50) percent of damage or deterioration of the non-supporting enclosing or outside walls or covering.

c. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

d. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the City.

e. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health, morals, safety or general welfare of those living therein.

f. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.

g. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

h. Those which because of their condition are unsafe, unsanitary or dangerous to health, morals, safety or general welfare of the people of this City.

i. Those buildings existing in violation of any provision of the Building code or the fire prevention code, electrical or plumbing codes or other Ordinances of this City.

7-05-02 Standards for Repair, Vacation or Demolition.

The following standards shall be followed in substance by the building official and the governing body in ordering repair, vacating, or demolition.

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a. If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired.

b. If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

c. In any case where a "dangerous building" is fifty (50) percent damaged or decayed or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this article or any Ordinance of the City or statute of the State of North Dakota, it shall be demolished.

7-05-03 Dangerous Buildings, Nuisances.

All "dangerous buildings" within the terms of Section 7-05-01 of this article are hereby declared to be public nuisances and shall be repaired, vacated or demolished as provided in Section 10-03-02, Substandard and Dangerous Buildings.

7-05-04 Duties of Building Official Regarding Dangerous Buildings.

The Building Official shall:

a. Inspect or cause to be inspected semi-annually, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing or loft buildings for the purpose of determining whether any conditions exist which render such places a "dangerous building" within the terms of Section 7-05-01 of this article.

b. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article.

c. Inspect any building, wall or structure reported (as hereinafter provided for) by the fire or police departments of this City as probably existing in violation of the terms of this article.

7-05-05 Where Owner Absent From the City.

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the City, all notices or orders provided herein shall be sent by registered or certified mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the land records of the Register

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of Deeds of the County of Eddy to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service.

7-05-06 Duties of Fire, and Police.

All employees of the fire and police departments shall make written reports to the building official of all buildings or structures which are, may be or are suspected to be "dangerous buildings" as herein defined.

7-05-07 Suggested Sample Forms.

IN THE MATTER OF "DANGEROUS BUILDINGS" LOCATED AT _____

NEW ROCKFORD, NORTH DAKOTA UNDER SECTION 7-05-01.

NOTICE OF HEARING

You are hereby notified that the building official of New Rockford, North Dakota, has filed with the board a report that you have not complied with a Notice and Order issued by him that dwellings located at _____ were dangerous buildings and were to be demolished by you prior to _____.

You are further notified to appear before the Board of City Commissioners at New Rockford City Hall on the day of _____, at the hour of _____ P.M., to show cause, if any you have, why said building reported to be a "dangerous building" should not be demolished in accordance with the statement of particulars set forth in the building official's notice.

Date _____ , _____

BOARD OF CITY COMMISSIONERS
OF THE CITY OF NEW ROCKFORD,
NORTH DAKOTA

By: _____
President of Board of
City Commissioners

ATTEST:

Auditor

HEALTH

IN THE MATTER OF A "DANGEROUS BUILDING" LOCATED ON:

TO THE CITY OF NEW ROCKFORD, NORTH DAKOTA, WITH AN ADDRESS OF:

NOTICE AND ORDER

You are hereby notified that the undersigned, Building Official of the City of New Rockford, North Dakota, acting pursuant to Article 5 and Chapter 7 of the Code of the City of New Rockford, North Dakota, _____, has made an inspection of the following described building in which you are, or appear to be, interested, to-wit:

You are further notified that the undersigned, Building Official, deems the foregoing described building to be dangerous within the meaning of Section 7-05-01 of said Ordinances of the City of New Rockford, North Dakota, _____, in the following particulars:

YOU ARE THEREFORE ORDERED TO _____

the said building on or before the _____ day of _____.

Building Official

Dated this _____ day of _____, _____.

HEALTH

This is a suggestion as to the warning sign that should be printed in red.

W A R N I N G

Whereas it has been determined by Appropriate Inspection that the Dwelling or Building to which this notice is attached, does not comply with Ordinances _____ of the City of New Rockford, all persons are hereby warned that it is unlawful to rent, lease, let, occupy or permit the use or occupancy of this dwelling or building, for dwelling purposes or as a place of employment for human beings, or to remove or molest this notice.

_____, Building Official
New Rockford, North Dakota.

CHAPTER 7

HEALTH

ARTICLE 6

ANHYDROUS AMMONIA

7-06-01 Definitions.

For the purpose of this article:

(A) The term "vehicle" shall include any vehicle, trailer, or semi-trailer propelled by mechanical, motor or muscular power.

(B) Tank truck: Any motor vehicle used for the transportation of anhydrous ammonia, which for such purpose is provided with a tank or tanks mounted on the frame or chassis of such vehicle.

(C) Tank trailer: Any vehicle without its own motive power but drawn by a motor vehicle, used for the transportation of anhydrous ammonia, and which for such purpose is provided with a tank or tanks mounted thereon.

(D) Tank semi-trailer: A vehicle of the trailer type having one or more axles and two or more wheels, so designed and used in conjunction with a motor vehicle that some parts of its own weight and that of its own load rests upon or is carried by another vehicle; used for the transportation of anhydrous ammonia and for which purpose is provided with a tank or tanks mounted thereof.

(E) Anhydrous ammonia tank: any vehicle, tank truck, tank trailer,
or tank semi trailer which can be used to store, haul, or dispense anhydrous ammonia.

7-06-02 Restriction on Storage on Parking Anhydrous Ammonia Tanks.

It shall be unlawful to store, or handle anhydrous ammonia within the City limits of New Rockford, North Dakota, and no anhydrous ammonia tank shall be parked or permitted to stand anywhere in the said municipality.

7-06-03 Penalty.

Any person violating any of the provisions of this article shall, upon conviction thereof, be fined not more than Five Hundred Dollars (\$500.00) and may be imprisoned not more than 30 days, or may be subjected to both such fine and imprisonment.

CHAPTER 8

BUSINESS REGULATIONS AND LICENSES

Article I.

LICENSES - GENERAL

8-01-01 Required

It shall be unlawful for any person, either directly or indirectly, to conduct any business or nonprofit enterprise, or to use in connection therewith any vehicle, premises, or machine or device, in whole or in part, for which a license is required by any law, provision of the Code, or ordinance of this city, without a license therefor being first obtained and kept in effect as required by this chapter or any other provisions of this Code or ordinance of this city.

8-01-02 Application

A. Procedure: All applications for a license shall be made, in writing to the issuing officer, or to the Board of city Commissioners, and shall be filed with such issuing officer unless otherwise required. The applicant shall at the time of filing his application deposit with the City Auditor the amount of license fee required. Where approval of the Board of City Commissioners is required, the city Auditor shall lay such application before the Council at its next regular meeting. If such application is granted and the bond is approved by the Board of city Commissioners or issuing officer, the City Auditor shall issue the license accordingly. If such application is refused, the license money deposited with the city Auditor shall be refunded to the applicant. In those articles where it is provided for approval and issuance of a license by a designated city official, the approval or refusal of a license application by such issuing officer shall in all cases be subject to review by the Board of city Commissioners.

B. Contents: The application shall:

(1) Form of Application: Be a written statement upon form provided by the City Auditor; such form shall include an affidavit; to be sworn to by the applicant before a notary public of the state.

(2) Contents of Application: Show that the applicant is licensed and bonded as required by the state law and disclose all information which the City Auditor shall find reasonably necessary for the fair administration of this chapter.

BUSINESS REGULATIONS AND LICENSES

(3) Payment of Fees, Bond: Be accompanied by the full amount of the fees chargeable for such license and any bond.

8-01-03 Issuance and Expiration

No license shall be granted for a longer period than one (1) year, except as herein provided, and all licenses shall commence on the first day of July in each year and expire on the last day of June in each year, and all licenses shall be signed by the City Auditor under the corporate seal. No license shall be valid until so signed and sealed, nor shall any person be deemed licensed until a license shall be duly issued to him. Each license shall be dated the day of the issuance thereof; but if the applicant or applicants shall have been acting without a license, the license shall commence with the date the business commenced, and if the business calls for a yearly license, then in that case the license shall commence on the first day of July in the year for which the license shall issue, and the date of the issuance of the license, together with the time of commencing and expiration shall be given in the license and license record.

8-01-04 Non-Transferability

No license shall be assignable or transferable unless otherwise provided; nor shall any person be authorized to do business or act under such license except the person to whom it is granted, or at any place other than the place specified therein. The Board of city Commissioners may grant the continuance of the licensed business in any other portion of the City, the said permission to be certified on such license by the City Auditor. No license shall authorize any person to act under it at more than one (1) place at the same time, or at any other place than is herein specified. Whoever shall violate any of the provisions of this section shall be deemed to be acting without a license, and shall be subject to the same penalty as prescribed for acting without license.

8-01-05 Application of Law

All licenses granted under the provisions of this chapter shall be subject to the provisions of this code and ordinances in relation to licenses, in force at the time of issuing thereof or which may be subsequently passed by the Board of City Commissioners.

8-01-06 Display of License

Any licensee shall post and maintain such license upon the, licensed premises in a place where it may be seen at all times, or vehicle, where applicable, shall carry such license on his person.

BUSINESS REGULATIONS AND LICENSES

8-01-07 Contents of License

Each license issued hereunder shall state upon its face the following:

A. The name of the licensee and any other name under which such business is to be conducted.

B. The kind and address of each business so licensed.

C. The amount of license fee therefore.

D. The dates of issuance and expiration thereof, which shall be June thirtieth (30th), following issuance, unless otherwise provided.

E. Such other information as the issuing officer shall determine.

8-01-08 Enforcement

The Chief of Police shall enforce all ordinances in relation to licenses, and shall from time to time examine the license record on file in the city Auditor's office, and shall prosecute all persons who shall be acting without license, and refusing to comply with the provisions of the ordinance in relation to taking out a license and said Chief of Police shall collect from them the sum which may be taxed for their license; and his receipt shall be good to the extent and purport thereof; but no person shall be considered licensed until license shall be issued in due form as required hereby.

8-01-09 Renewal

When any person desires to renew such license as required by the code such person shall furnish and file like information as required by 8-01-02.

8-01-10 Revocation

If any person shall violate any provisions of any ordinance relating to his license, he may be proceeded against for any fine or penalty imposed thereby, and his license may be revoked or forfeited for sufficient cause by the Board of City Commissioners, or by the Municipal Judge before which any action may be brought for the recovery or any fine or penalty.

BUSINESS REGULATIONS AND LICENSES

Article 2.

SHOWS, CARNIVALS AND CIRCUSES

8-02-01 License Required

No person, firm, association or corporation shall exhibit or cause to be exhibited or assist in exhibiting any natural or artificial curiosity or conduct a circus, menagerie, tent, show, carnival or carnival show, continuous theatrical performance, shooting gallery, or other like exhibition, without first obtaining license from the City.

8-02-02 Cash Bond Required

Any carnival or circus granted a license shall deposit with the city auditor cash bond in the amount of Five Hundred Dollars (\$500.00) guaranteeing that the premises upon which such carnival or circus is located shall be cleaned after the showing of such carnival or circus to the satisfaction of the city engineer and upon certification of the city engineer to the city auditor, or if the City has no city engineer upon determination of the city auditor that the same has been done, said cash deposit shall be returned to the licensee.

8-02-03 Order and Exceptions

(1) Good order shall be preserved in and about the place of exhibition or amusement and is necessary for that purpose, there shall be employed at promoters expense a sufficient police force.

(2) The Board of city Commissioners has the authority to waive the license fee, when the event is given under the auspices of a church, school, charitable institution, fraternal or patriotic organization.

Article 3.

AUCTIONEERS

8-03-01 Define

Whoever shall sell or offer to sell any goods, wares, merchandise or other personal property, and real estate or any interest therein at public out-cry or auction for gain, advertise, or in any way hold himself as a public auctioneer is hereby declared to be an auctioneer.

BUSINESS REGULATIONS AND LICENSES

8-03-02 License - Required

No sale of goods, wares, merchandise or other property, real or personal, shall be made at auction within the City, except such as are made under and by virtue of legal process or under or by virtue of a mortgage or lien, by any person, his co-partner or clerk, unless such person shall have first obtained a license for such purpose as provided in the following section.

8-03-03 Same - Application; Fee; Expiration

Any person may become licensed as an auctioneer within the City to sell property, real or personal, at public auction, by making application therefor with the city auditor upon the form provided by the City showing proof that applicant is the holder of a valid license from the State and deposit of an annual license fee of Ten Dollars (\$10.00) Approval for issuance thereof shall be first obtained from the Board of City Commissioners. Any license issued pursuant hereto shall expire on the 30th day of June of each year or immediately upon suspension or revocation of such State license.

8-03-04 Same - Revocation

The license issued pursuant to this chapter shall be subject to a reasonable revocation by the Board of city Commissioners whenever it shall appear to its satisfaction that the person licensed shall have violated any of the provisions of this chapter.

8-03-05 Representations to be Made in Loud and Distinct Voice

Whenever an auctioneer sells or offers for sale any goods, wares, merchandise or any other personal property or real estate, he shall make all statements and representations concerning the same in aloud and distinct voice.

8-03-06 False Statements by Auctioneer

Any auctioneer who makes false statements or misrepresentations regarding any property sold by him or offered by him for sale, shall be liable on his bond to the person damaged thereby for all damages and costs suffered by such person and his bond shall stand good for all such damages and costs.

BUSINESS REGULATIONS AND LICENSES

Article 4.

DANCES AND DANCING PLACES

8-04-01 Definitions

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Public Dance: A public dance shall be taken to mean any dance where the public may participate in payment, either directly or indirectly, of an admission fee or price for dancing, and shall include any manner of holding a dance which may be participated in by the public through the payment of money, or other token, directly or indirectly.

Public Dancing Place: A public dancing place shall be taken to mean a room, place or space open to public patronage where dancing in which the public may participate is carried on and to which admission may be had by the public by payment, either directly or indirectly, of an admission fee or token.

8-04-02 Sale or Use of Intoxicating Liquor

Repealed October 3, 1994

8-04-03 Permit; Fee:

Every person conducting a public dance in the City shall first procure a permit from the City Auditor. He shall file with the City Auditor an application giving the name of the applicant, the time such permit is to be in effect, and the place where such dancing is to be conducted. Such application must be accompanied by a fee of One Dollar (\$1.00). Such licensee shall before holding any dance, notify the city auditor in advance thereof, and permit a policeman or police matron to attend and be in charge thereof, and shall pay for such policing services not exceeding the sum of _____ Dollars (\$_____) for each dance. The Board of City Commissioners may revoke any such permit for any violation of the provisions of this chapter or of the law of the State. No public dance shall continue later than 1:00 AM.

8-04-04 Private Dances

Every person conducting a private dance shall before holding the same, inform the chief of police and shall permit inspection by the

BUSINESS REGULATIONS AND LICENSES

police, and if policing of such dance is necessary in the judgment of the chief of police, shall permit supervision thereof and pay the fee required in the same manner as provided in Section 8-04-03 for a public dance.

Article 5.

PEDDLERS

8-05-01 Definition

The word "peddler" as used in this chapter shall mean any person, whether a resident or this City or not, traveling from place to place, from house to house, or from street to street, for the purpose of selling or soliciting for sale, goods, wares, merchandise or services; and shall also mean and include any person transacting a temporary business within the City at an established place of business. The "peddler" shall include the terms "solicitor", "transient or itinerant merchant or vendor" or "transient or itinerant photographer".

For the purposes of this section, the phrase "goods, wares, merchandise and services" shall have its common meaning and shall include items of personal property, photographs, photographic negatives, art work, periodicals and subscriptions thereto, encyclopedias, franchises, and any other item of interest which may be sold or offered for sale or otherwise obtained.

8-05-02 Exceptions to Chapter

The provisions of this chapter shall not apply to:

A. Solicitations, sales, or distributions made by charitable, educational or religious organizations which have their principal place of activity in the city of New Rockford.

B. Auction sales when conducted by an Auctioneer holding a valid license from the State of North Dakota.

C. The holding of a "Flea Market" when the owner of the merchandise offered for sale is a resident of the City of New Rockford. Provided however that no "Flea Market" can be conducted for more than two consecutive days, and no person can hold more than one "Flea Market" in any consecutive 30 day period.

D. The sale of fireworks when the owner of the merchandise offered for sale is a resident of the city of New Rockford.

BUSINESS REGULATIONS AND LICENSES

E. The holding of a "Rummage Sale" when the owner is a resident of the city of New Rockford, and when the merchandise offered for sale is "second-hand" goods.

F. Gatherings commonly referred to as "parties" where the buyers gather at a single location upon invitation by the seller for the sale of jewelry, cosmetics and the like.

G. Agricultural products and livestock as the same may be exempted by State Law.

8-05-03 Refusing to Leave

Any peddler who enters upon premises owned, leased, or rented by another refuses to leave such premises after having been notified by the owner or occupant of such premises, or his agent, to leave the same and not return to such premises, shall be deemed in violation of the provisions of this chapter.

8-05-04 Entrance to Premises Restricted

It shall be unlawful for any person to engage in business as a peddler within this city without first obtaining a permit so to do.

8-05-06 Application

Every person desiring to obtain an application under this article shall make written application to the City Auditor, which application shall be signed by the applicant and shall state the kind of goods, wares, and merchandise the applicant seeks to peddle and the length of time for which the applicant desires the license.

8-05-07 False Information

It shall be unlawful for any person to give any false or misleading information in connection with his application for a permit required by this article.

8-05-08 Fee

Before any permit shall be issued under the provisions of this article, the applicant therefor shall pay a fee, based upon the duration he desires to engage in business in the city, as follows:

NORTH DAKOTA RESIDENTS

Per day-----	\$ 25.00	Per week-----	\$ 50.00
Per month---	\$ 75.00	Per year-----	\$100.00

BUSINESS REGULATIONS AND LICENSES

NON-RESIDENTS OF NORTH DAKOTA

Per day----	\$ 50.00	Per week-----	\$100.00
Per month--	\$150.00	Per year-----	\$200.00

8-05-09 Bond Required

The application for a permit required by the provisions of this article shall be accompanied by a bond in the penal sum of One Thousand Dollars (\$1,000.00) signed by the applicant and signed, as surety, by some surety company authorized to do business in this state, conditioned for the final delivery of goods, wares, merchandise or services in accordance with the terms of any order obtained prior to delivery and also conditioned to indemnify any and all purchasers or customers for any and all defects in material or workmanship that may exist in the article sold by the principal of such bond, at the time of delivery, and that may be discovered by such purchaser or customer within thirty (30) days after delivery, and which bond shall be for the use and benefit of all persons that may make any purchase or give any order to the principal on such bond, or to an agent or employee of such principal.

8-05-10 Service of Process

Before any permit shall issue under this article, there shall also be filed with the city auditor an instrument in writing, signed by the applicant under oath, nominating and appointing the city auditor his true and lawful agent, with full power and authority to acknowledge service of notice of process for and on behalf of such applicant, and service of summons in any action brought upon the applicant's bond shall be deemed made when served on the city auditor.

8-05-11 State License

No permit shall be issued under the provisions of this article until an applicable state license is secured or held by the applicant, if required by state law.

(FOOTNOTE: Chapter 51-04 North Dakota Century Code. As of January 1984, North Dakota transient merchants licenses are required of non-North Dakota residents only.)

8-05-12 Issuance

No permit shall be issued under the provision of this article until the applicant shall have complied with all the provisions and requirements of this article.

BUSINESS REGULATIONS AND LICENSES

8-05-13 Contents of Permit

Each permit issued under the provisions of this article shall be signed by the City Auditor, shall be dated as of the date of its issuance, and shall state the duration or term of such permit on the face thereof. Any permit not dated and signed as herein provided, or which was issued in violation of this section, shall be void.

8-05-14 Duration

Every permit issued under the provisions of this article shall be valid for the period of time stated therein, but in no event shall any such permit be issued for a period of time in excess of twelve (12) months.

8-05-15 Revocation

Any permit issued under the provisions of this article may be revoked for the violations of the permittee of any applicable provision of this Code, state law or city ordinance. Upon such revocation, such permit shall be immediately surrendered to the city Auditor, and failure to do so shall be deemed in violation of the provisions of this chapter.

8-05-16 Penalty for Violation of Chapter

Any person, firm, or corporation violating any of the provisions of this chapter shall, upon conviction, be punished by a fine not to exceed Five Hundred Dollars (\$500.00), or imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment in the discretion of the Municipal Judge; the Municipal Judge to have the power to suspend said sentence and to revoke the suspension thereof.

Article 6.

SOLICITATION WITHOUT INVITATION

8-06-01 Solicitation without Invitation Prohibited

The practice of going in and upon private residences or privately owned property in the City by solicitors, peddlers, hawkers, itinerant merchants, transient vendors of merchandise, photographers and magazine and periodical subscription agents, not having been requested for invited to do so by the owner or owners, occupant or occupants of such private residences or private property, for the purpose of soliciting orders for sale of goods, wares and merchandise and/or for the purpose of disposing of and/or peddling or hawking the same, and for the purpose of soliciting subscriptions to magazines or

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periodicals and/or for the purpose of taking photographs is hereby declared to be a nuisance and unlawful.

8-06-02 Enforcement

The chief of police and all police officers in the city are hereby required and directed to suppress the same and to abate any such nuisance as is described in 8-06-01.

ARTICLE 7.

Alcoholic Beverages

8-07-01 Definitions

For the purpose of this article:

1. "Alcoholic beverages" means any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
2. "Beer" means any malt beverage containing more than one-half of one percent of alcohol by volume.
3. "Licensee" means any person, firm, corporation, association or club which shall have secured a license pursuant to provisions of this chapter or their agent or employee.
4. "Liquor" means any alcoholic beverage except beer.
5. "Person" means and includes any individual, firm, corporation, association, club, co-partnership, society or any other organization; and shall include the singular and the plural.
6. "Sale" and "sell" mean all manner or means of furnishing alcoholic beverages, including the selling, exchange, barter, disposition of and keeping for sale of such alcoholic beverages.
7. "Package" and "original package" mean and include any container or receptacle containing an alcoholic beverage, which container or receptacle is corked or sealed by the manufacturer thereof and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser.
8. "Club" or "lodge" includes any corporation or association organized for civic, fraternal, social or business purposes or the promotion of sports, which has at least 100 members at the time of application for license.
9. "Retail sale" means the sale of alcoholic beverages for use or consumption and not for resale.

BUSINESS REGULATIONS AND LICENSES

10. "Off-sale" means the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license shall authorize the person named therein to conduct such off-sales only at the place designated in such license and not elsewhere, and shall not permit the opening of the package sold on the premises where sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.
11. "On-sale" means the sale of alcoholic beverages for consumption only on the premises where sold, and an on-sale license shall authorize the licensee to conduct such on-sales only at the place designated in such license and not elsewhere.

8-07-02 Exceptions

1. This article shall not apply to wines delivered to priests, rabbis and ministers for sacramental use.
2. This article shall not be construed to apply to the following articles, when they are unfit for beverage purposes:
 - a. Denatured alcohol produced and used pursuant to Acts of Congress and the regulations thereunder.
 - b. Patent, proprietary, medical, pharmaceutical, antiseptic, and toilet preparations.
 - c. Flavoring extracts, syrups and food products.
 - d. Scientific, chemical and industrial products; nor to the manufacturer or sale of said articles containing alcohol.

8-07-03 License Required

No person shall sell at retail within the city limits of this City any alcoholic beverage without first having obtained a license therefore as herein provided. This section shall not apply to public carriers engaged in interstate commerce.

8-07-04 Licenses - Classes of - Fees (Source: North Dakota Century Code section 5-02-03)

The fee for an on and off sale liquor license is \$1,200 per year.

The fee for an on and off sale beer license is \$500 per year.

The fee for an on sale liquor license is \$400 per year.

The fee for an on sale beer license is \$250 per year.

BUSINESS REGULATIONS AND LICENSES

The fee for an off sale liquor license is \$800 per year.

The fee for an off sale beer license is \$250 per year.

8-07-05 Licenses and Event Permits

No person shall sell at retail within the City Limits of New Rockford any alcoholic beverage without first having obtained a license therefor as herein provided. Licenses shall be for the period and under the terms set forth in Article 1 of this chapter.

The Board of City Commissioners may by permit authorize a licensee to engage in the sale of alcoholic beverages at events designated by the permit. The fee for the event permit shall be twenty-five dollars (\$25.00). The permit shall be valid for a period of three (3) days and may include Sundays. The Board of City Commissioners may establish rules to regulate and restrict the operation of an event permit.

The Board of City Commissioners may authorize persons under twenty-one years of age to remain in the area of the event, or a portion thereof, where beer, wine, or sparkling wine may be sold pursuant to the permit. However, this authorization must be subject to the following minimum conditions:

- a. The area where persons under twenty-one years of age may remain must be specifically set forth in the permit;
- b. Only employees of the licensee who are at least twenty-one years of age may deliver and sell the beer, wine, or sparkling wine; and
- c. No person under twenty-one years of age within the area described in the permit may consume, possess, or receive alcoholic beverages.

8-07-06 License - Qualifications

A retail license may not be issued to any person unless the applicant files a sworn application, accompanied by the required fee, showing the following qualifications:

1. The applicant, other than an organization, must be a legal resident of the United States and be a person of good moral character.
2. If the applicant is:
 - a. A corporation, then:
 - (1) The manager of the licensed premises and the officers and directors must be legal residents of the United States and persons of good moral character; and

BUSINESS REGULATIONS AND LICENSE

(2) The shareholders:

- (a) Who are individuals, must be legal residents of the United States and of good moral character; and
- (b) Which are organizations, must meet the requirements of this section for applicants which are organizations.
- (c) Must first be properly registered with the North Dakota Secretary of State.

b. A limited liability company, then:

- (1) The manager of the licensed premises and the managers and governors must be legal residents of the United States and of good moral character.
- (2) The members:
 - (a) Who are individuals, must be legal residents of the United States and of good moral character; and
 - (b) Which are organizations, must meet the requirements of this section for applicants that are organizations.
- (3) The applicant must first be properly registered with the North Dakota Secretary of State.

c. A limited partnership, then:

- (1) The manager of the licensed premises must be a legal resident of the United States and of good moral character.
- (2) The general partners and limited partners:
 - (a) If individuals, must be legal residents of the United States and of good moral character; and
 - (b) If organizations, must meet the requirements of this section for applicants that are organizations.
- (3) The applicant must first be properly registered with the North Dakota Secretary of State.

d. A general partnership, then:

- (1) The manager of the licensed premises must be a legal resident of the United States and of good moral character; and
- (2) The partners:

(a) Who are individuals, must be legal residents of the United States and of good moral character; and

(b) Which are organizations, must meet the requirements of this section for applicants that are organizations.

e. A limited liability partnership, then:

(1) The manager of the licensed premises must be a legal resident of the United States and of good moral character; and

(2) The partners:

(a) Who are individuals, must be legal residents of the United States and of good moral character; and

(b) Which are organizations, must meet the requirements of this section for applicants that are organizations.

(3) Limited liability partnership applicants must first be properly registered with the North Dakota Secretary of State.

3. The applicant or manager must not have been convicted of an offense determined by the Board of City Commissioners to have a direct bearing upon an applicant's or manager's ability to serve the public as an alcoholic beverage retailer, or, following conviction of any offense, is determined not to be sufficiently rehabilitated under section 12.1-33-02.1.
4. The building in which business is to be conducted must meet local and state requirements regarding the sanitation and safety.
5. The Board of City Commissioners may require the applicant to set forth such other information in the application as necessary to enable them to determine if a license should be granted.

BUSINESS REGULATIONS AND LICENSES

6. The applicant may not have any financial interest in any wholesale alcoholic beverage business.
7. As a condition precedent to a background check, the City may require the applicant to pay, in advance, an additional

fee necessary to defray the actual cost of a background check of a person for whom adequate background information sources are not readily available. In addition, the City may require the applicant or such other person subject to a background check to execute a written consent if needed by the City to obtain background or criminal history information.

8-07-07 Application for Liquor License

Any person desiring a license to sell alcoholic beverages at retail as hereinbefore described shall make and present a written verified application to the Board of City Commissioners, filed with the city auditor, containing the following information:

1. The name and address of the applicant; if the applicant is a co-partnership, the name and address and place of residence of each member of said co-partnership; if the applicant is a corporation, the name and address of the officers of the corporation and the manager of the licensed premises.
2. Whether the applicant is a citizen of the United States, and if a naturalized citizen, the date and place of naturalization and place of residence of the applicant for a period of one year last preceding the date of application; if the applicant is a co-partnership the same preceding information for each member of said co-partnership; and if the applicant is a corporation, the date of incorporation, the state where incorporated, the purpose for which said corporation was incorporated and if such corporation is a subsidiary of any corporation, the name of the parent corporation.
3. The legal description and the address of the premises for which license is sought.
4. The date on which the applicant acquired title to the premises sought to be licensed, and if the applicant does not have title to said premises, the name and address of the owner of the premises together with a copy of the applicant's lease, if written, under which he holds possession of said premises.
5. Whether there are any delinquent taxes against the premises sought to be licensed.
6. Whether the applicant has ever engaged in the sale or distribution of alcoholic beverages prior to this application, and if so, the date and type of business and place where so engaged whether within or without the State of North Dakota, the date the applicant first began to operate.

BUSINESS REGULATIONS AND LICENSES

7. Whether the applicant has ever had a license revoked or cancelled by a municipal, state or federal authority, and if so, the date of such cancellation, the place and authority

canceling the same and the reason for such cancellation.

8. Whether the applicant has ever been convicted of the violation of any law of the United States or of any state, or of the violation of any local ordinance with regard to the manufacture, sale, distribution or possession of alcoholic beverages, and if so, the dates, names of place and courts in which said convictions were had.
9. Whether the applicant has ever had a license for the sale of alcoholic beverages revoked for any violation of state laws or local ordinances, and if so, the names of the bodies revoking such license, the dates of such revocation and the reasons assigned therefore.
10. Whether the applicant has ever been convicted of any other crime than stated in subsections (8) and (9) hereof, in this state or any other state, or under any federal law, and if so, the date of such conviction, the name of the crime for which convicted, the amount and terms of sentence passed and the court in which convicted.
11. The name and address and the place of residence for a period of one year prior to the date of application of any person who will have charge, management or control of the establishment for which license is sought.
12. Whether any other person than the applicant has any right, title, estate or interest in the leasehold or in the furniture, fixtures or equipment in the premises for which license is sought, and if so, the name and address of such person together with a statement of the interest so held.
13. Whether the applicant has any interest whatsoever directly or indirectly, in any other establishment dispensing alcoholic beverages, either at wholesale or retail, within or without the State of North Dakota, and if so, the names and addresses of such establishments. This provision is meant to include the holders of capital stock in any corporation dealing in alcoholic beverages, either at wholesale or retail, within the borders of the United States.
14. The occupations that the applicant has followed during the past five years.
15. The names and addresses of at least three business references.
16. Whether the applicant is rated by any commercial agency, and if so, the name and address of said agency.

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17. Whether the applicant is engaged in any other business or intends to be engaged in any other business than the sale of alcoholic beverages under the license for which application is made, and if so, the type of business, and if an

employee, the name and address of the employer.

18. The classification of license applied for.
19. If the applicant is a lodge or a club, the date of organization, the number of members, the purpose for which organized and the purpose for which profits to be derived from the sale of alcoholic beverages are to be applied; and whenever required by the Board of City Commissioners a list of the members belonging to such lodge or club.
20. A statement by the applicant that he consents to entry and inspection of the premises for which license is sought or any part thereof at any time by any police officer, sheriff or any peace officer of this City or of the State of North Dakota.

8-07-08 License - Application Fitness

The chief of police or such other person or officer as may be designated by the Board of City Commissioners shall, upon the filing of an application investigate the facts as stated in the application and the character, reputation and fitness of the applicant and shall report on said matters to the Board of City Commissioners.

8-07-09 License - Location

No license shall be issued or transferred to any person, firm or corporation to engage in the sale of beer or alcoholic beverages within the City without approval as to the location of said licensed business by the Board of City Commissioners. The application for approval shall be in writing and shall be filed with the Board of City Commissioners. At the time of hearing, the Board of City Commissioners shall in its discretion determine if said location is in harmony with the public interest and welfare of the community and shall consider among other things the following factors:

1. The convenience of police regulations.
2. Public health and sanitation.
3. Proximity of other licensed businesses.
4. Proximity of schools, churches, funeral homes, public buildings or buildings used by or for minors.
5. Any protests of neighboring property owners or occupants.
6. Zoning regulations.
7. Proposed on- or off-sale or both licensee.

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8. Interference with or proximity to residential property.
9. Interference with neighboring property.

10. Suitability of premises for sale of beer, liquor or alcoholic beverages.

11. Public convenience and necessity.

8-07-10 License - Granting

After the Board of City Commissioners has received the application as provided herein, they shall meet and consider the same. If the Board of City Commissioners finds that the applicant meets the qualifications for a license and is satisfied as to the completeness and the accuracy of the information contained in the application, they may grant the license. If the Board of City Commissioners finds that the applicant does not meet with the qualifications or is not satisfied as to the completeness or accuracy of the information, they may request that the applicant supply more verified information to the Board of City Commissioners or they may reject the application.

8-07-11 License - Posting

License issued hereunder shall be posted in a conspicuous place in the premises for which the license has been issued.

8-07-12 License - Transfer

No license under the provisions of this article shall be transferable and any attempt to do so shall constitute a violation of the provisions of this article.

8-07-13 License Fees - Disposition

All license fees collected under this article shall be transferable to the city auditor and credited to the general fund of the City.

8-07-14 Hours and Time of Sale - Penalty

A licensee may not dispense or permit the consumption of alcoholic beverages on a licensed premises between two a.m. and eleven a.m. on Sundays, between the hours of two a.m. and eight a.m. on all other days of the week, or on Christmas Day or after six p.m. on Christmas Eve. In addition, a person may not provide off-sale after two a.m. on Thanksgiving Day or between two a.m. and noon on Sundays. A person that violates this section is guilty of an offense which is punishable by a fine of up to five hundred dollars (\$500.00) and possible suspension or revocation of license.

All licensees shall close and keep closed their place of business during hours and times that liquor is not permitted to be sold as stated herein. It shall also be unlawful for any person to consume in any such place any alcoholic beverages after the hours set

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forth above in this section. Additionally, it shall be unlawful for any person to remain in any premises licensed to retail alcoholic beverages during hours and times that liquor is not permitted to be sold as stated in this section, except that the licensee and any

employee may be allowed to remain on the premises after such hours for the sole purpose of cleaning up or stocking inventory, but shall leave as soon as their work is complete.

8-07-15 Possession of Unsealed container

No person shall drink or consume nor have in his possession nor on his person nor keep beer, liquor, wine, or alcoholic beverages on or in any public street, sidewalk, alley, or in an automobile, truck, or at public functions in any municipal building, which has been opened or the contents of which have been partially consumed.

8-07-16 Licensee's Responsibility

Every licensee is hereby made responsible for the conduct of the licensee's place of business and is required to maintain order and sobriety in such place of business, permitting no disorderly conduct on the premises. Alcoholic beverages shall not be served to any intoxicated person.

8-07-17 Consumption of Liquor From Package

No person shall permit the consumption of beer, liquor, or alcoholic beverages upon the licensed premises or the opening of the container containing the alcoholic beverage, the same being in the original package in which the sale is made on the premises where sold, unless the licensee holds an on-sale license and the beverage dispensed is served in a glass or other similar container by the licensee or his employee; provided, however, that this shall not apply to the consumption of malt beverages from original packages. All sales of beer, liquor, or alcoholic beverages made by the licensee in packages shall be completed upon the licensed premises by the delivery of the container containing the beer, liquor, or alcoholic beverage to the person upon such premises. It shall be unlawful for any person to consume beer, liquor or alcoholic beverages off the licensed premises which were originally sold to the person for consumption upon the licensed premises and not originally sold as an off-sale.

8-07-18 Bottle Clubs

No person shall operate an establishment whereby persons are allowed to bring in their own alcoholic beverages on the premises where the proprietor sells soft drinks, mix, ice, or charges for bringing such beverages on the premises.

8-07-19 Gambling Prohibited - Exceptions

No licensee hereunder shall be permitted to have or maintain on the licensed premises any gambling device, slot machine, punch board or any other machine or device of similar nature, nor shall gambling whether by cards, dice or otherwise, of any nature, be permitted upon
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the licensed premises. Any violation of this section shall be sufficient cause for the revocation of the license issued hereunder. This section shall not apply to gambling or games of chance conducted by a licensee under the authority of a valid and subsisting permit

issued by the Board of City Commissioners or license issued by the State of North Dakota.

8-07-20 Cashing Certain Checks Prohibited

No licensee hereunder shall cash any bank check, voucher, order or document of any kind drawn by a county welfare board or any state or federal agency in payment for wages made for work done on any so-called work relief project, or for relief purposes, which by its terms authorizes or permits any person presenting such bank check, voucher, order or document to receive payment of money.

8-07-21 Sales Prohibited - Persons

No licensee, his agent or employee shall sell any alcoholic beverages to a person under twenty-one (21) years of age, a habitual drunkard, an incompetent or an intoxicated person.

8-07-22 Minors in Licensed Premises

Except as permitted in this section, it is unlawful for a licensee to dispense alcoholic beverages to an individual under twenty-one years of age, or to permit an individual under twenty-one years of age to remain on the licensed premises while alcoholic beverages are being sold or displayed.

An individual under twenty-one years of age may enter and remain on a licensed premises while alcohol is being sold or displayed, at the discretion of the licensee, if:

- a. The individual is accompanied by a parent or guardian who is twenty-one years of age or older. For purposes of this section, "guardian" means an individual who has the legal responsibility for the health and well-being of the individual under twenty-one years of age;
- b. The individual is on the premises to consume a meal or in an emergency situation;
- c. The premises serves at a tabletop, food that is prepared in a kitchen with at least an indoor grill;
- d. The individual is not on the licensed premises after ten p.m.; and
- e. The licensee receives permission from the Board of City Commissioners for individuals to be on the premises as allowed under this section.

An individual under twenty-one years of age may not remain in a
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restaurant where alcoholic beverages are being sold except if the restaurant is separated from the room in which alcoholic beverages are opened or mixed and gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, or

if the individual is employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of an individual twenty-one or more years of age and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.

An individual under twenty-one years of age may enter and remain on the licensed premises if the individual is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages; if the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or if the individual enters the licensed premises for training, education, or research purposes under the supervision of an individual twenty-one or more years of age with prior notification of the local licensing authority.

An individual under twenty-one years of age may remain in an area of a site where beer, wine, or sparkling wine is sold in accordance with the conditions of an event permit issued pursuant to ordinance 8-07-05.

An individual who is eighteen years of age or older but under twenty-one years of age may be employed by a restaurant as provided in paragraph 2 herein to serve and collect money for alcoholic beverages, if the individual is under the direct supervision of an individual twenty-one or more years of age, but may not be engaged in mixing, dispensing, or consuming alcoholic beverages. Any establishment where alcoholic beverages are sold may employ individuals from eighteen to twenty-one years of age to work in the capacity of musicians under the direct supervision of an individual twenty-one or more years of age.

For purposes of this section, an individual is not twenty-one years of age until eight a.m. on that individual's twenty-first birthday.

8-07-23 Age Identification

Before selling alcoholic beverages to any person, or before determining whether any person shall remain upon the licensed premises a licensee, his agent or employee may require a statement in writing and signed by said person of such person's age. Any person who makes a false statement as to his or her age, or signs a name other than his own or her own to any such statement, shall be guilty of a violation of this article.

8-07-24 Street Sales Prohibited

The sale or consumption of alcoholic beverages upon or across any street, alley or public way is prohibited.

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8-07-25 Premises, Equipment of

Premises licensed hereunder for on-sale alcoholic beverages shall be equipped with tables, chairs, booths and stools in a sufficient number

to accommodate reasonably the patrons.

8-07-26 Purchase from Licensed Wholesaler

No licensee hereunder shall purchase, have or possess any alcoholic beverages other than those purchased from a wholesaler duly licensed by the State of North Dakota pursuant to the provisions of Title 5 of the North Dakota Century Code. Each licensee hereunder shall keep on file all invoices covering purchases of such alcoholic beverages showing the name and license number of the wholesaler. Such records shall be retained in the possession of the licensee and shall be at all times open to inspection by any police officer or peace officer of the State of North Dakota.

8-07-27 Toilets Required

Premises where an on-sale license is granted must be equipped with adequate and sufficient lavatories and toilets, separately maintained for men and women, and kept in a clean and sanitary condition. The on-sale license may be revoked when the foregoing requirements, or any other health ordinance or regulation, are not at all times strictly observed.

8-07-28 Deliveries - Off Licensed Premises

1. It shall be unlawful for any person, firm or corporation engaged in the retail sale of liquor, beer or alcoholic beverages to make, or cause to be made any deliveries outside of the licensed place of business of beer, liquor or other alcoholic beverages to any purchaser or prospective purchaser.
2. It shall be unlawful for any person, firm or corporation to deliver by foot, carrier or motor carrier, any beer, liquor or alcoholic beverage to any person within the city limits provided however, that this section shall not apply to deliveries made by a licensed wholesaler dealer to a licensed retail dealer.

8-07-29 Sale of Beer in Kegs -Records and Markings Required

1. A retail licensee selling beer in a container having a liquid capacity greater than two (2) gallons shall place a distinctive serial number on the container which uniquely identifies the licensee, and, moreover, shall mark such container in such a manner, and maintain such business records, that in the event the container is returned to licensee he can establish the following information with respect to the most recent sale involving the container within the last six (6) months, to-wit:

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The date of the sale and the name, address, driver's license and social security number of the person to whom it was sold.

2. Each retail licensee shall register the unique serial number

with the City Auditor and shall provide the City Auditor with such of the information gathered pursuant to subsection 1 as the Auditor from time to time may require

3. This section shall not apply to the sale of containers by a retail licensee if licensee intends and requires that the contents of the container will be consumed on the licensed premises where the sale occurs.
4. Failure to comply with the provisions hereof will result in suspension of retail license for not more than seven (7) days.

8-07-30 Termination or Revocation of Licenses

1. Licenses issued pursuant to this article shall be deemed cancelled and terminated upon the happening of any one or more of the following contingencies:
 - a. The death of the licensee unless upon application to the Board of City Commissioners by personal representative of the decedent, the Board of City Commissioners consents to the carrying on of the business by the personal representative.
 - b. When the licensee ceases business at the location licensed, unless a new location has been approved.
 - c. When the licensee is adjudged bankrupt.
 - d. When the licensee has been convicted of the violation of any provision of this article, or of the laws of the State of North Dakota pertaining to alcoholic beverages or of a felony under the laws of the United States, the State of North Dakota or of any other state of the United States.
 - e. When the licensee ceases to possess the qualifications required of an applicant for a license as set out in this article.
 - f. When the license or permit of the licensee from the United States Government or the State of North Dakota to sell alcoholic beverages at the location licensed has been terminated or revoked.
 - g. When the licensee ceases to be a legal bona fide resident and citizen of the State of North Dakota.

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2. Licenses issued pursuant to this ordinance may, in the discretion of the Board of City Commissioners, be either revoked or suspended for such period of time as deemed

appropriate, upon the following grounds:

- a. When the licensee has been convicted of violating any of the provisions of this article.
 - b. When the business of the licensee at the location licensed shall be conducted in violation of health or sanitary regulations or other ordinances of the City.
 - c. When the licensee, if an individual, or one of the partners, if the licensee is a partnership, or one of the officers or the manager if the licensee is a corporation, be convicted in any Court of Law for drunkenness or disorderly conduct, or if any appeal is taken from such conviction then when such conviction be sustained by the higher court or courts.
3. Such causes as are hereinbefore detailed shall not be deemed to be exclusive and a license may also be cancelled and revoked or suspended at any time by the Board of City Commissioners for any cause deemed by the Board of City Commissioners to be sufficient cause and justified by reason of public health or public morals. Such termination shall be subject only to review by the courts of the State of North Dakota.
4. When any license is terminated or revoked for cause, or the licensee voluntarily ceases business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through the licensee.

8-07-31 Penalties

Any licensee, person, firm, corporation or association violating any of the provisions of this article shall upon conviction thereof, be subject to a fine of not to exceed five hundred dollars (\$500.00). In addition, all powers, right and privileges given by any license granted under the terms of this article may be terminated or revoked in accordance with Section 8-0730. Each day or part thereof that person shall be in violation of the provisions of this Article shall be considered a separate violation.

FIRST READING: May 17, 2017
SECOND READING: June 5, 2017
EFFECTIVE DATE: June 26, 2017

Article 8.

INSTALLATION OF NATURAL GAS LINES

8-08-01 Definitions For The Purpose of This Ordinance

1.1 MUNICIPALITY: The term "municipality" means the municipal corporation adopting this Ordinance.

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1.2 APPROVED: The term "approved" means approval by the Gas Inspector.

1.3 GAS INSPECTOR: The term "gas inspector" means the person or persons appointed by the municipality to make the inspections provided for by this Ordinance.

1.4 GAS APPLIANCE: The term "gas appliance" means a device using natural or manufactured gas as a source of energy.

1.5 GAS PIPING: The term "gas piping" means any pipe, tubing or conduit, valves and fittings, conveying or holding natural or manufactured gas, in and about any building or buildings beginning at the outlet of the gas meter.

1.6 GAS COMPANY: The term "gas company" means the public utility providing gas service in the municipality, or any individual or association of individuals providing gas service for himself, themselves or others, within the corporate limits of the municipality.

1.7 PERSON: The term "person" means any individual, group of individuals, partnership, association, firm or corporation.

1.8 GAS FITTER: The term "gas fitter" means any person who is qualified by license as a gas fitter or plumber.

1.9 GAS FITTING: The term "gas fitting" means the installation, extension, or alteration of any system of gas piping as defined in this Ordinance, as well as the installation, rearrangement, or replacement of any gas appliances and the installation, alteration, or extension of the flues and connections conveying products of combustion of any gas appliances.

1.10 FLUE OR VENT: The term "Flue" or "Vent" means the vertical or nearly vertical pipe, conduit, or passageway conveying the products or combustion from the connection at the flue or vent connector to the outside atmosphere.

1.11 FLUE OR VENT CONNECTOR: The term "flue" or "vent connector" means the pipe connecting the appliance with the flue or vent.

8-08-02 Application of Regulations

2.1 GENERAL: No person shall do any gas fitting in any manner that does not conform to the provisions of this Ordinance. It shall be unlawful for any person to perform gas fitting for which a permit is required, unless he is a gas fitter or plumber, as defined by this Ordinance.

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2.2 HAZARDOUS INSTALLATIONS: The Gas Inspector may prohibit the use of any gas fitting, or any part thereof, which after inspection or test is considered as introducing a distinct hazard to life or property. The Gas Company shall not be required to render service to hazardous installations.

2.3 WORK BETWEEN MAIN AND METER: No person, unless in the employ of the Gas Company, shall repair, alter, or open the service pipe carrying unmetered gas, or set or disconnect the service meter, or do any other work on that part of the gas piping, when containing gas, up to and including the meter.

2.4 DISCONNECTING METER: Unless in the employ of the Gas Company, or having a permit from the Gas Company, no person shall disconnect the outlet of a service meter from the building piping.

2.5 SERVICE LINES: Service Lines to carry unmetered gas shall be installed in accordance with standards and specifications as prescribed by this Ordinance.

8-08-03 Licenses

3.1 REQUIRED TO BE CARRIED: No person shall engage in the business of gas fitting in the City without first obtaining a gas fitter's license from the city. A person licensed under this chapter shall carry such license on his person at all times he is engaged in gas fitting and shall not use his license for more than one business entity engaged in the business of gas fitting.

3.2 FEES: The fee for a gas fitter's license shall be Twenty-five and no/100 Dollars (\$25.00) per year and shall be renewed annually on January 1st of each year upon payment of the fee. However, the holder of a valid, current plumber's license shall be exempt from payment of said fee.

3.3 QUALIFICATIONS: No person shall be issued a gas fitter's license until he shall have taken a gas fitter's examination given by the gas inspector and shall have passed the same with a grade of seventy-five or better.

3.4 BOND AND LIABILITY INSURANCE: Before the gas fitter shall receive the license required by this article, he shall execute and deposit in the office of the City Auditor a bond to be approved by the Board of city Commissioners in

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the sum of Two Thousand and no/100 Dollars (\$2,000.00), conditioned that he will comply with all the laws, ordinances, rules and regulations and requirements of the City pertaining to such occupation and that he will indemnify and save harmless the City of and from all accidents and damages caused by any negligence in protecting his work or by any unfaithful or inadequate work done by virtue of such license, or by his failure to comply with the laws, ordinances, rules, regulations, or policies of insurance with limits of \$100,000.00 per person and \$300,000.00 per occurrence for the bodily injury and \$50,000.00 for property damage for liability resulting from all accidents and damages caused by any negligence of the licensee in connection with his work as a gas fitter. Such policy or policies of insurance shall not be cancelable without written notice to the city by the insurer of its intent to cancel said policy or policies at least two weeks prior to the date of cancellation. A copy of such policy or policies of insurance shall be filed with the City Auditor and approved by the Board of City Commissioners.

3.5 FORFEITURE: Any gas fitter who shall be guilty of a violation of any of the provisions of this Ordinance, laws, ordinances, rules and regulations of the Board of City Commissioners or reasonable requirements of any officer of the City, shall immediately forfeit his license and be guilty of a violation of this Ordinance.

8-08-04 Permits

4.1 UNLAWFUL WITHOUT PERMIT: It shall be unlawful for any person to do gas fitting, except in those instances listed in paragraph 4.2, unless the owner of the premises on which the work is to be done, or someone on his, her, or its behalf, shall first obtain from the Gas Inspector a written permit authorizing such gas fitting.

4.2 WORK NOT REQUIRING PERMIT: No permit shall be required in the following instances:

(A) In the case of repair work to stop leakage of gas when such work does not involve the replacement or rearrangement of valves, pipes, appliances, or other fixtures.

(B) In the case of work involving ordinary operation of any appliance (i.e. cleaning, adjusting, etc.) which does not also involve changes in the method of serving the appliance with gas.

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(C) In the case of replacement or removal of an appliance or fixture which does not require the turning off or on of gas other than the single branch serving the appliance or fixture which is being replaced or removed.

(D) In the case of any ordinary repair or alteration of an appliance or fixture which does not require cutting into the gas piping or which will not result in any change in the operation or the venting of such appliance or fixture.

(E) In the case of complete turn-on and turn-off of gas, when the customer moves in or out of the premises.

(F) In the case of work performed on gas mains, services, meters, regulators or other facilities necessary to the operation of the Gas Company's system.

4.3 APPLICATION FOR PERMIT: All applications for permits for gas fitting shall be made in writing to the Gas Inspector on special permit forms to be provided by the municipality. When satisfied that the person to do the work is qualified, and the work to be done or the facilities of this Ordinance and pay a fee of Three and no/100 Dollars (\$3.00) for original permit and three and no/100 Dollars (\$3.00) for additions afterwards, he shall issue a permit therefor.

8-08-05 Material

5.1 MATERIAL FOR SERVICE LINES: All materials for gas service lines shall conform to current specifications of the American National Standard B31.8 Code for underground piping.

5.2 MATERIAL FOR GAS PIPING: Pipe shall be first quality black steel or wrought iron pipe. Internally tinned copper or brass pipe of full weight, standard gauge and thickness, in iron pipe and size with threaded joints, shall be approved. Fittings on screw pipe shall be wrought or malleable iron. Fittings on copper or brass pipe shall be of the same material as the pipe. Welded fittings and joining of pipe by welding is permitted. Piping installed outside of a building to connect appliances located outside (such as gas lights, gas grills, etc.) may be rigid pipe conforming to underground pipe standards or, may be of tubing of material resistant to corrosion.

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5.3 APPLIANCE CONNECTIONS: Non portable appliances such as central heating, water heating, room heating and similar equipment shall be connected to the gas piping with rigid pipe. Hot plates, clothes dryers, refrigerators, domestic gas ranges and similar equipment, shall be connected to the gas piping with rigid pipe, approved semi-rigid tubing or approved appliance connectors of flexible metal, double-wall, aluminum lined. When a semi-rigid tubing connector or a connector of flexible metal tubing is used, it shall connect to an outlet in the same room as the appliance. The length of the connector shall not exceed six (6) feet. The connector shall be installed so as to be protected against physical damage.

8-08-06 Gas Service Installation

6.1 GENERAL: Gas service pipe, shall be laid on firm, undisturbed soil with a minimum cover of sixteen (16) inches. When laid on backfilled earth special care shall be exercised that the soil is well tamped and firm. When necessary to lay service lines parallel with and near .water lines, sewers, or other gas lines, a minimum separation of twelve (12) inches shall be maintained.

6.2 SIZE OF PIPE: Gas service lines for medium to high pressure use (pounds per square inch gauge) shall be not .less than three-quarter (3/4) inch pipe. Low pressure (ounces or inches of water column gauge pressure) service lines shall be not less than one an one-quarter (1 1/4) inch pipe. All services shall be so sized that the pressure drop from the main to meter shall not be greater than three tenths (0.3) inches water column for low pressure services.

6.3 ACCESSIBILITY: Service lines shall not be run underground under buildings, basement floors, porches, garages, etc., or adjacent to structures having no solid foundations or where the soil is extremely porous. In such cases, suitable offsets must be provided. In special cases, casing the carrying pipe may be approved.

6.4 SERVICE ENTRANCES: Service line entrances to buildings without basements or with uncemented partial basements shall be made by bringing the line up above ground level outside the building and then entering through the building wall. No service line shall enter a building below

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ground level except a building with full basement of solid wall construction at that portion where the service enters. Service line entrances through basement walls shall be sealed on both sides to make them water and gas tight.

6.5 SERVICE COCKS: An approved gas stop of the same size as the service pipe shall be installed in the service line on the inside of the building as close as practicable to the point of entrance and shall be so located as to be accessible at all times.

Service lines shall be provided with a shut-off valve, outside of the building located either near the curb or property line, or in the service pipe riser prior to building entry. When installed at the curb or property line, a suitable valve box shall be provided which shall extend to the surface of the ground, shall be of easy access, and shall have the top plainly marked "GAS".

6.6 GROUNDS: No electrical service, electric appliances, or telephone grounds shall be attached to gas piping.

6.7 TESTING: Before backfilling, all service pipes shall be tested with air for a period of fifteen (15) minutes, at a minimum of one hundred (100) pounds per square inch gauge pressure. The gauge shall show no pressure drop during the test. A suitable gauge with 1/4 pound graduations shall be used. No testing shall be done with the service line connected to the main unless the main is untapped. When the main is tapped and contains gas, the service line shall be disconnected. Connections not included in the test shall be given a thorough soap suds test under gas pressure.

8-08-07 Gas Piping

7.1 PIPING PLAN: A definite plan for the piping of appliances shall be made before work is begun. If necessary, a sketch of the piping shall be prepared. Requirements governing the location of the gas meter will govern provisions of planning the gas piping system.

7.2 INTERCONNECTIONS: When two or more meters are installed on the same premises which supply separate consumers, the piping systems shall not be interconnected on the outlet side of the meter.

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7.3 PIPING INSTALLATIONS: Gas piping and fittings shall be clear and free from cutting burrs and defects in structure or threading and shall be thoroughly brushed and scale blown. Pipe ends shall be thoroughly reamed before threading and making up.

Fitter's cement or wax shall not be used. White lead or other pipe joint compounds or dope may be used sparingly and applied to make pipe threads only. Defects in pipe or fittings shall in no case be repaired. All such defective pipe or fittings shall, when located, be removed and replaced with perfect material.

The unthreaded portion of outlets shall extend at least one (1) inch through finished walls and at least two (2) inches above floors. The pipe or outlet fitting shall be securely fastened to the wall or partition or construction above the floor. When pipes are secured to masonry or metal surfaces, expansion shields, brackets, clamps, or inserts shall be used. Wooden plugs are prohibited.

Piping containing measured gas under pressure shall not be cut into or opened except when done by using equipment designed to prevent escape of gas. When such equipment is not available the piping shall be purged of all gas before cutting.

Any piping run from one building to another shall be installed underground in accordance with the standards for service piping and shall be of the next size larger than the size required if it were not run underground (see table, section VIII) and in no case less than one (1) inch pipe.

Gas piping shall not be supported by other piping but shall be supported by appropriate pipe hooks, metal pipe straps, bands or hangers suitable for the size of the pipe, of proper strength and quality, and at proper intervals so that the piping cannot be moved accidentally from the installed position.

A tee fitting with the bottom outlet plugged or capped, instead of an ell fitting, shall be used at the bottom of all appliance risers or drops.

No field bonding of pipe for turns or offsets shall be allowed in gas piping.

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The building structure shall not be weakened by the installation of gas piping. Notching of beams and joists shall be avoided wherever possible. Before any beams or joists are cut or notched, special permission shall be obtained from the architect or the owner.

Piping shall not be installed in solid walls or solid floors but shall be located in hollow partitions or laid in channels in a solid floor, suitably covered to permit access to the piping with a minimum of damage to the buildings.

When installing gas piping which is to be concealed, unions, running threads, right and left couplings, bushings, and swing joints made by combinations of fittings shall not be used. If it is necessary to connect piping in concealed locations it may be done with the use of standard couplings. It is preferable to weld at such locations.

8-08-08 Size of Piping to Gas Burning Devices

8.1 TABLE: The size of all gas pipe installed shall conform to the following table.

CAPACITY OF PIPE OF DIFFERENT DIAMETERS AND LENGTHS, IN CUBIC FEET PER HOUR WITH PRESSURE DROP OF 0.3 INCHES AND SPECIFIC GRAVITY OF 0.60

Length of Pipe in Feet	Diameter of Pipe - Inches									
	<u>½</u>	<u>¾</u>	<u>1</u>	<u>1-¼</u>	<u>1-½</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>6</u>	<u>8</u>
15	76	172	345	750	1,220	2,480	6,500	13,880	38,700	79,000
30	52	120	241	535	850	1,780	4,700	9,700	27,370	55,850
45	43	99	199	435	700	1,475	3,900	7,900	23,350	45,600
60	38	86	173	380	610	1,290	3,450	6,800	19,330	39,500
75		77	155	345	545	1,120	3,000	6,000	11,310	35,300
90		70	141	310	490	1,000	2,700	5,500	15,800	32,250
105		65	131	285	450	920	2,450	5,100	14,620	29,850

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Length of Pipe in Feet	Diameter of Pipe - Inches									
	<u>½</u>	<u>¾</u>	<u>1</u>	<u>1-¼</u>	<u>1-½</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>6</u>	<u>8</u>
120			120	270	420	860	2,300	4,800	13,680	27,920
150			109	242	380	780	2,090	4,350	12,240	25,000
180			100	225	350	720	1,950	4,000	11,160	22,800
210			92	205	320	660	1,780	3,700	10,330	21,100
240				190	300	620	1,680	3,490	9,600	19,740
270				178	285	580	1,580	3,250	9,000	18,610
300				170	270	545	1,490	3,000	8,500	17,660
450				140	226	450	1,230	2,500	7,000	14,420
600				119	192	390	1,030	2,130	6,000	12,430

NOTE: Due Allowance for the effect of an ordinary number of fittings has been made.

8-08-09 Tests

9.1 COVERING PIPE: Gas piping shall not be covered, concealed or painted before inspection and test of same are made and the work approved.

9.2 TESTING FOR TIGHTNESS: Upon the completion of construction, extension, or alteration of any gas piping for any natural or manufactured gas for which a permit is required by this Ordinance, and, before any of the piping has been covered or concealed, the person to whom said permit has been granted shall notify the Gas Inspector that the work is ready for inspection and test. Said person shall test said gas piping for a period of 15 minutes under an air pressure of at least fifty (50) pounds per square inch gauge, or two (2) times the expected pressure at which the system will be operated, whichever is greater. The gauge will be one pound graduation and shop no drop in pressure during the test. Said person shall furnish the gauge, pump and other equipment required to make the test. Appliances connected to the gas piping shall be disconnected before making the test; the openings so left shall be capped or plugged.

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9.3 UNLAWFUL: It shall be unlawful to attach any gas appliance, or to connect any gas meter to any gas piping for which a permit is required, until after such gas piping shall have been made tight, installed in accordance with the provisions of this Ordinance, and examined and approved by the Gas Inspector. certification of examination and approval shall be made by said Gas Inspector on the back of the copy of the permit on file in his office.

8-08-10 Gas Appliances

10.1 ACCESSIBILITY: Every gas appliance shall be located so as to be accessible for operation, repair and adjustment.

10.2 FIRE HAZARD: Gas appliances shall be so installed that their continued operation will not constitute a fire hazard to surrounding combustible construction. The temperature of surroundings combustible construction in no case be raised beyond 160 degrees F. Approved insulation of a permanent nature must be provided where necessary.

10.3 APPLIANCE CONNECTIONS: Each gas appliance shall be connected to the gas piping in such a manner that it may be disconnected without cutting a pipe or breaking a solid fitting.

10.4 INDIVIDUAL SHUT-OFF: Every gas appliance shall be provided with an individual cock or shut-off located as close to and as convenient to the appliance as possible, yet readily accessible for operation and repair. Such cocks or shut-offs shall be placed sufficiently far apart so that they will be readily distinguishable.

10.5 HOW SUPPORTED: Every gas appliance shall rest on its own legs or supports and on a solid foundation and shall be so connected to the piping as not to exert any strain on the connection.

10.6 USE OF GAS HOSE: The connection of an appliance within buildings or structures with any type of gas hose is prohibited, except when used with laboratory, shop or ironing equipment that requires mobility during operation. Such connections shall have the shut-off or stop cock installed at the connection to the building piping. Where gas hose is used, it shall be of the minimum practical length, but not to exceed six (6) feet, and shall not

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extend from one room to another nor pass through any walls, partitions, ceilings or floors. Portable gas grills installed outside may be connected with a listed gas hose not exceeding fifteen (15) feet in length. Under no circumstances shall gas hose be connected from view or used in a concealed location. Only listed gas hose shall be used and shall be used only in accordance with the terms of its listing. Gas hose shall not be used where it is likely to be subject to excessive temperatures (above 125 degrees F).

10.7 ATTACHMENTS: No device or attachment shall be installed on any gas appliance which may in any way impair the combustion of gas.

10.8 COMBINATIONS: Any combination of gas appliances, attachments, or other auxiliary devices used together in any manner shall meet the requirements of this Ordinance which apply to individual gas appliances.

10.9 THERMOSTATICALLY CONTROLLED APPLIANCES: Every thermostatically controlled appliance having a main burner or burners that go off and on shall be equipped with a safety pilot. A safety pilot is a device which will close off the main gas supply to the burner in the event of failure of burner ignition or gas supply within three (3) minutes of such failure. Safety pilots shall not depend upon the closing of an electric circuit to shut off the main gas supply to the appliance.

10.10 VENTILATION: No gas appliance shall be installed in a bathroom, bedroom, or other room normally kept closed, unless there are provided two permanent openings, one near the top of the enclosure and one near the bottom. Each opening shall have a free area of not less than one square inch per 5,000 BTU per hour of the total input rating of all appliances in the enclosure, freely communicating with interior areas having in turn adequate infiltration from the outside. Each such appliance must in all cases be connected to an effective flue or vent.

10.11 INCINERATORS: Incinerators shall be installed as close to the chimney or flue as practical, except those of the wall or built-in type, which shall be installed in a noncombustible wall, integrally apart of the chimney or flue. No gas-served appliance shall be vented into any incinerator of the wall built-in type, nor to the chimney or flue serving such an incinerator. No gas-served

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appliance shall be vented into any vent connector serving an incinerator; provided, however, they may be connected to a common chimney or flue of adequate size. No draft hood shall be used on any incinerator.

10.12 APPLIANCE ADJUSTING: No gas appliance shall be installed which is not capable of adjustment to effect the complete combustion of the gas. Every gas appliance shall be properly adjusted after being installed and the customer shall be instructed in its safe and proper operation.

10.13 STANDARDS: All gas appliances shall bear the seal of approval of the American Society of Mechanical Engineers; American Gas Association or Fire Underwriters Laboratories for the type of gas served. In the absence of such seal, the appliance shall meet the approval of the Gas Company and of bodies such as Factory Mutual Testing Laboratories, Factory Insurance Association, etc.

8-08-11 Pilots

11.1 INSTALLATION DETAILS: The pilot or pilots shall occupy a fixed and structurally secure position in relation to the burner or burners they serve and shall be located so as to be readily accessible for lighting, repair, or replacement.

11.2 SEPARATE VALVE: Except in the case of approved 100% shut-off safety devices, pilot lines must be taken off the piping system to the appliance ahead of (on meter side) the main shut-off valve, and where appliances regulators are used, ahead of the regulator. pilot lines must have a separate cock or shut-off valve.

11.3 PILOT LINE TAKE-OFF: Pilot lines shall not be taken off the underside of piping.

11.4 NUMBER OF PILOTS: Pilots shall ignite burner or burners without delayed ignition. Where this cannot be accomplished with one pilot, sufficient pilots shall be provided.

11.5 PILOTS:

(A) Safety pilots of either the flame conductivity or thermostatic type must be so designed that the gas pilot and the flame rod, thermocouple, bimetal expanding rod, etc., must be in the form of an

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integral unit, so upon insertion of pilot assembly after removal for repairs or cleaning, safety pilot will be in the same position relative to the main burner as when originally installed.

(B) The pilot flame and the thermostatic safety pilot shall occupy such a fixed position in relation to each other that a sufficient drop in gas pressure will cause the thermostatic safety pilot to shut off gas supply to main burner, if pilot light is not sufficient to assure proper ignition of main burner.

(C) The flame conductivity type of pilot shall consist of a flame rod and flame head, relay, start and stop push button type of switch, solenoid gas valve for shutting off safety pilot gas as well as gas to the plain pilots, the necessary high tension cable, and a positive shut-off gas valve.

8-08-12 Chimneys, Flues and Vents

12.1 FLUE CONNECTIONS REQUIRED: Except domestic gas ranges, domestic refrigerators, domestic clothes dryers and hot plates installed for single family use, every gas appliance equipped with a vent connection shall be connected to an effective flue or vent. Flue connections shall be required on any and all space heating appliances, except those that take their combustion air directly from the outside and discharge the products of combustion directly to the outside.

Further, flue connections shall be required on each of several gas appliances, except domestic gas ranges and domestic refrigerators, installed in the same room, which in the aggregate have an input rating as great as thirty (30) BTU per hour per cubic foot of room content.

Nothing in this section shall be construed to mean that properly designed and vented canopies are prohibited when used in connection with ranges, bake-ovens, cookers, fryers, and similar type of appliances. When properly vented canopies are used, the individual vent for each appliance or chimney, flue, or vent may be waived. When canopies are used, provision for adequate replacement air must be provided.

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12.2 TYPES OF FLUES OR VENTS:

(A) Type A: Lined chimneys of masonry or reinforced concrete and Underwriter's approved prefabricated flues for all flues shall constitute a type A flue or vent. Type A flues are required for (1) all incinerators; (2) all appliances which may be converted readily to the use of solid or liquid fuels; (3) all central space heating equipment (boilers and furnaces) which are installed in commercial establishments or places of assembly.

Metal smokestacks may be type A flues, when designed in accordance with accepted engineering principles, used in large installments.

(B) Type B: Vent piping of non-combustible, corrosion-resistant material of sufficient thickness, crosssectional area and heat insulating qualities to avoid excess temperatures on adjacent combustible material and certified by American Gas Association Laboratories, Inc., or Underwriters' Laboratories, Inc., shall constitute a type B flue or vent.

12.3 MARKING TYPE B FLUES OR VENT: Flues or vents installed for use with gas appliances, but which are not suitable for solid or liquid fuels, shall be plainly and permanently labeled as a TYPE B flue or vent.

12.4 CHECK CHIMNEY: Before connecting a flue or vent connector the flue or vent shall be examined to ascertain that it is properly constructed, clear, and will freely conduct the products of combustion to the outside air.

12.5 CHIMNEY ENTRANCE: In entering a flue or vent, the connection shall be at least ten (10) inches above the extreme bottom to avoid stoppage. Means shall be employed which will prevent the flue or vent connector from entering so far as to unduly restrict the space between its end and the opposite wall. A thimble or slip joint may be used to facilitate removal of the connector for cleaning. Where more than one appliance is vented to a flue or vent, the connections shall be at different levels, wherever practicable.

12.6 FLUE OR VENT SIZE: The flue or vent to which the flue or vent connector is connected shall be of a size not less than specified in the table below. In no case shall the

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area be less than the area of three (3) inch diameter pipe. When more than one appliance vents into a flue or vent the flue or vent area shall be not less than the area of the largest flue or vent connector plus fifty percent (50%) of the areas of the additional flue or vent connectors. Oval or rectangular shaped flues or vents may be used, providing their flue gas venting capacities are equal to the capacity of the round flue or vent for which substituted.

ALLOWABLE BTU INPUT TO CIRCULAR TYPE B CHIMNEYS

DIAMETER (INSIDE) IN INCHES	AREA IN SQ. INCHES	CHIMNEY HEIGHT				
		10' M BTU PER HOUR	20' M BTU PER HOUR	30' M BTU PER HOUR	40' M BTU PER HOUR	50' M BTU PER
3	7	25	27	30	32	---
4	12 1/2	46	50	57	60	67
5	20	75	81	94	100	115
6	28	110	125	150	165	175
7	38	155	165	200	215	230
8	50	210	235	275	300	320
9	63 1/2	265	295	355	380	410
10	78 1/2	340	370	450	485	515
11	95	420	460	560	610	660
12	113	500	550	690	750	800

12.7 CLEANOUTS: Cleanouts shall be of such constructions that they will remain tightly closed when not in use.

12.8 CHIMNEY LINERS: Unlined masonry chimneys may be converted to type A flues by installation of approved chimney liners of proper dimensions. Masonry chimneys should be inspected to ascertain the need of liners. Liners may be required for unlined bracket and outside chimneys to prevent deterioration. Liners may also be required if the existing chimney flue is too large, which would result in poor venting conditions. Type B flues are recommended for

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lining wherever practicable. Single wall aluminum, stainless steel or vitro-lined type C flue pipe may also be used. The use of black or galvanized steel pipe is prohibited. All liners shall terminate at the bottom with a tee.

8-08-13 Flue or Vent Connectors

13.1 TYPE C FLUE OR VENT: Piping of sheet copper, galvanized sheet steel or sheet aluminum of 26 U.S. Standard gauge or heavier may constitute a type C flue or vent. Type C flues or vents shall be installed only as vent connectors to type A or type B flues or vents. They shall not pass through any wall, partition, floor, or ceiling of combustible construction, nor through any concealed space or attic. When passing through a non-combustible wall, the minimum clearance shall be one (1) inch from such construction.

13.2 SIZE: The flue or vent connector shall not be smaller than the size indicated by the vent collar on the appliance and not less than one (1) square inch in cross sectional area for each 7,500 BTU per hour input to the appliance; provided, however, that in no case shall the vent from any appliance be less than three (3) inches in diameter or its equivalent in capacity in other than round vent connectors; provided further, that where high chimneys create high draft intensities, or where mechanical draft is applied, the foregoing rule may be deviated from to the extent of practicability. In converting solid or liquid fuel appliances to gas burning appliances, it may be necessary to restrict the size of the existing flue or vent connector, or to install a replacement sized in accordance with the above rule.

13.3 LENGTH OF VENT CONNECTOR: The horizontal run of the flue or vent connector shall be as short as practicable and the appliance shall be located as near the flue or vent as possible. The maximum length of a horizontal run shall not exceed seventy-five (75%) of the height of the flue or vent. Runs longer than 12 feet shall be avoided wherever possible. Wherever sufficient head room is available, appliances having a horizontal flue outlet shall be provided with a vertical run of flue or vent connector before the horizontal run. Wherever practicable, short turns should be avoided, by the use of 45 degree elbows, to minimize frictional resistance in the connector.

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13.4 SUPPORTS: The horizontal run of the flue or vent connector shall maintain a uniform upward pitch from the appliance to the flue or vent, and shall be securely supported.

13.5 CLEARANCE: Flue or vent connectors shall be located in such a manner that continued operation of the appliance will not raise the temperature of surrounding combustible construction more than 90 degrees F above normal room temperature.

Minimum distance from combustible construction for all appliances, except floor furnaces and incinerators, shall be one (1) inch for type B flues and six (6) inches for type C flues. For floor furnaces, the minimum distance for type B vent connectors shall be three (3) inches for a distance of not less than three (3) feet from the outlet of the draft hood, beyond which the minimum clearance is one (1) inch; type C vent connectors shall not be used. The minimum distance for type C vent connectors shall be eighteen (18) inches for incinerators; type B vent, connectors shall not be permitted.

13.6 DRAFT HOODS: Every flue-connected appliance, except incinerators, dual oven-type combination ranges, and units designed for power burners or for forced venting, shall have a draft hood. Where the draft hood is a part of the appliance, or is supplied by the appliance manufacturer, it shall be installed without alteration in accordance with the manufacturer's instructions. In the absence of manufacturer's instructions, the draft hood shall be attached to the flue collar of the appliance or as near to the appliance as conditions permit, in the position for which it was designed with reference to the horizontal and vertical planes, and so located that the relief opening is not obstructed by any part of the appliance or adjacent, construction. In no case shall a draft hood be installed in a false ceiling, in a different room, or in any manner that will permit a difference in pressure between the draft hood relief opening and the combustion air supply.

13.7 DAMPERS: No manually operated damper shall be placed in any flue or vent connector. Fixed baffles ahead of draft hoods are not classed as dampers.

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8-08-14 Electrical Connections.

14.1 ELECTRIC IGNITION AND CONTROL DEVICES: Devices employing or depending on electric current to control or ignite a gas supply shall not be used if the failure of the electrical current could result in the escape of unburned gas or in failure to shut off the supply of gas, unless other means are provided to prevent the development of dangers temperatures, pressures, or the escape of gas.

14.2 ELECTRICAL GROUND: The gas piping shall not be used for an electrical ground, not shall electric circuits utilize gas piping, casing of controls, panels, or other metal parts in lieu of wiring. This provision shall not apply to low voltage control and ignition circuits, and to electronic flame detection device circuits incorporated as part of the appliance.

14.3 CONTINUOUS POWER: It is recommended that central heating gas appliances for domestic use be provided with a separate electrical circuit.

8-08-15 General.

15.1 CAP ALL OUTLETS: Each outlet, including a valve or cock outlet, shall be securely closed gas-tight with a threaded iron plug or cap immediately after installation and shall be left closed until an appliance is connected thereto. Likewise, when an appliance is removed from an outlet and the outlet is not to be used again immediately, it shall be securely closed gas-tight. In no case shall the outlet be closed with tin caps, wooden plugs, corks, etc.

15.2 BURNER INPUT: Each burner shall be adjusted to its proper input in accordance with the manufacturer's instructions. Over-rating of burners shall not be allowed.

15.3 NOTIFY GAS COMPANY: In case any work done by a gas fitter disclosed the need for repairs or alterations on any part of the supply system containing unmetered gas, the Gas Company shall be notified promptly of this fact.

If gas is leaking from any part of the gas supply system containing unmetered gas, a gas fitter or plumber shall promptly notify the Gas Company to make repairs, and, if the Gas Company does not make the necessary repairs at once, the gas fitter or plumber may make the necessary temporary repairs.

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15.4 TURN GAS OFF: All gas fitting shall be performed with the gas turned off.

8-08-16 Inspection

16.1 INSPECTION: Before any gas fitting is put into service, it shall be inspected and approved in writing to the Gas Inspector. The written approval shall be attached to and remain on the gas fitting after its inspection. Within 2 days (exclusive of Sunday and Holidays) after receiving notice that a gas fitting is ready for inspection, the Gas Inspector shall make his inspection. In case of an emergency, the Gas Inspector may permit the gas to be turned on before the gas fittings are inspected.

8-08-17 Validity

17.1 PORTIONS INVALID: Should any section, clause or provision of this Ordinance be held unconstitutional or invalid by any court, all other sections, clauses and provisions shall nevertheless be deemed to be effective as though such unconstitutional or invalid section, clause or provision had never been inserted in this Ordinance.

8-08-18 Violations

18.1 VIOLATIONS: The continued violation of any provision of this Ordinance shall be and constitute a separate offense under this Ordinance, for each and every day such violation shall continue.

8-08-19 Ordinance Effective

19.1 REPEAL: All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed.

19.2 EFFECTIVE WHEN: This Ordinance shall become effective upon its passage, approval, and publication or posting, as provided by law.

Article 9.

PLUMBERS

8-09-01 License Required.

No person or person shall carryon the business of plumbing or engage in conducting plumbing or house drainage until he or they shall obtain a license as such plumber from the City Auditor.

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8-09-02 Bond Required.

Before receiving such license the party shall execute and deposit in the office of the City Auditor a bond to be approved by the city Commissioners, in the sum of Three Thousand Dollars (\$3,000.00) conditioned that he will comply with all the ordinances, regulations and requirements of the City of New Rockford, pertaining to such occupation and that he will indemnify and save harmless the City of New Rockford of and from all accidents and damages caused by the negligence in his work, or by his failure to comply with the ordinances, regulations, and requirements of the city. Further, that he will indemnify and save harmless any person for whom he may perform any work under and by virtue of such permit against any damages, costs or expenses, caused by reason of his failure to comply with any ordinance, regulation, or requirement of the City of New Rockford, or for any defective material furnished or work done by him.

8-09-03 Fee for License.

The City Auditor shall, upon receipt of \$25.00, as license fee, issue to said plumber a license permitting him to do work on any and all city sewers and water mains under and pursuant to the ordinances and regulations of the city of New Rockford pertaining to the same, and the laws of the State of North Dakota.

CHAPTER 9

FRANCHISES

Article 1

IN GENERAL

9-01-01

It is the intent of the Board of City Commissioners of the City of New Rockford to grant franchises or privileges to persons, associations, or corporations. Any franchise or privilege, except where given to a railroad company, shall extend for a period not to exceed twenty (20) years.

9-01-02

The Board of City Commissioners, prior to the passage of these ordinances had granted franchises to different persons, associations and corporations. It is the intent of the Board of City Commissioners to affirm and continue in force these previously granted franchises and privileges, as listed in Article 2 hereafter.

Article 2.

PREVIOUSLY GRANTED FRANCHISES

9-02-01 Great Northern Railway Company

A) Franchise granted December I, 1913.

Section 1. For the purpose of enabling the Great Northern Railway Company the better to serve its New Rockford patrons in handling and delivering their freight, there be, and hereby is granted to the said Railway Company, its successors, lessees and assigns, a right-of-way over, along, across and upon the following streets and alleys in the City of New Rockford, with permission and authority to construct thereon a spur railway track and operate thereover locomotives, cars and trains of cars as follows, to-wit:

From a point on the northerly line of the said Railway Company's right-of-way near the center of Second Street West, and extending thence easterly over and across Second Street West and First Street West, and on, along and upon the alley running easterly and westerly in Blocks 32 and 33, of the Original Plat of the City of New Rockford, to a point on the westerly line of the alley running northerly and southerly through the said Block 33.

Section 2. The said railway track shall be so laid as to conform to the established grade of the streets and alleys on, along,

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over, across or upon which it may be located and constructed. Where the streets or alleys are not now at established grade said track may be laid so as to conform to the surface of such street or alleys, PROVIDED, that such track shall be brought to grade whenever the said city shall grade the said streets or alleys.

Section 3. That if the said city shall at any time pave or otherwise improve the surface of any of the streets or alleys, on, along, over, across, or upon which the said track may be located, the said Great Northern Railway Company, its successors, lessees, or assigns, shall pave, plank, repave or re-plank the space between the rails of the said track and one (1) foot on the outside of the rails thereof in such manner as shall be ordered by the city to conform to the surface of the improvements upon said streets or alleys made or caused to be made by the city.

Section 4. That upon all streets across which said track may be located or constructed, said Railway Company, its successors, lessees or assigns, shall construct and maintain crossings for vehicles and pedestrians, by paving or planking between the rails and on the outside of the rails in such manner as may be ordered by the City Commissioners.

Section 5. That the said Railway Company, its successors, lessees or assigns: at the time of the construction of said track, shall construct at their own cost and expense under the direction and supervision of the City Engineer and at such points as he may direct and designate, culverts, sewers and surface drains of such material and dimensions as said City Engineer shall order and which shall at all times conform to any system of drainage adopted by the city.

Section 6. That the said Railway Company, its successors, lessees or assigns; shall not use said streets except for the passage of engines, cars or trains and shall not allow any crossing over the said track to be obstructed by engines, cars, trains for more than five (5) minutes at anyone time, nor shall the said streets or alleys be so blocked by said engines, cars, or trains more often than once in every thirty (30) minutes.

Section 7. That the track herein to be provided for shall not be located and laid down until the injuries, if any, to the property abutting upon the streets, alleys, or public places upon which the said railway track is proposed to be located and laid down shall be ascertained and due compensation therefor made to the owner or owners of such abutting property.

Section 8. That the construction of the said track herein

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provided for shall be commenced within one (1) year from the taking effect of this ordinance, and in default thereof the grant of a right-of-way for such track shall be forfeited, unless such construction be prevented by litigation, strikes or other unavoidable causes. (The foregoing sections are taken from Ch. 29).

B) (2) Franchise Granted May 17, 1922.

Section 1. For the purpose of enabling the Great Northern Railway Company the better to serve its New Rockford patrons in handling and delivering their freight, there be, and hereby is granted to the said Railway Company, its successors, lessees, and assigns, a right-of-way, over, along, across, and upon the following alley in the City of New Rockford, with permission and authority to construct thereon a spur railway track and operate thereover locomotives, cars, and trains of cars as follows, to-wit:

From a point in said alley on the west line of Lot One (1) of said Block One (1) Re-plat of Peoples' Additions produced, extending thence easterly upon and along said alley to the east line of said Block One (1).

Section 2. That said railway track shall be so laid as to conform to the established grade of the alley on, along, over, and across, or upon which it may be located and constructed. It being understood that said track may be laid so as to conform to the surface of said alley, provided, that said track shall be brought to grade whenever the said city shall grade said alley.

Section 3. That if the said city shall at any time pave or otherwise improve the surface of the alley, on, along, over, across, or upon which the said track may be located, and the said Great Northern Railway Company, its successors, lessees, or assigns, shall pave, repave, or replank the space between the rails of the said track and one (1) foot on the outside of the rails thereof in such manner as shall be ordered by the city to conform to the surface of the improvements upon said alley made or caused to be made by the city.

Section 4. That the track herein to be provided for shall not be located and laid down until' the injuries, if any, to the property abutting upon the alley or public places upon which the said railway track is proposed to be located and laid down shall be ascertained and due compensation therefor made to the owner or owners of such abutting property.

Section 5. That the construction of the said track herein provided for shall be commenced within one (1) year from the taking

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effect of this ordinance, and in default thereof the grant of a right-of-way for such track shall be forfeited, unless such construction be prevented by litigation, strikes or other unavoidable causes.

Section 6. The expense of publishing this ordinance shall be paid for by the grantee herein. (The foregoing sections are taken from Ch. 58).

9-02-02 North Dakota Telephone Company

Section 1: Purpose.

This Ordinance shall establish a non-exclusive Franchise, which constitutes an agreement between the City of New Rockford (hereinafter the "City") and North Dakota Telephone Co. (hereinafter the "Operator"). The Operator agrees to construct, maintain, and operate a communications services system for the distribution of telephone service, broadband services, and video service pursuant to the terms of the Franchise. The City agrees to grant all necessary rights and privileges to use public rights of way necessary for the communications services system. This agreement shall, as of the effective date, supercede all existing franchises previously granted by the City of New Rockford to Operator, or any of its predecessors, subsidiaries, or affiliated companies.

Section 2: Length of Franchise.

The length of this Franchise shall be for a term of 20 years from May 19, 2008 through midnight of May 19, 2028.

Section 3: Service Area.

The Operator's service area shall be the entire area of the City of New Rockford, in its present form or in any later reorganized, or enlarged, or re-incorporated form.

Section 4: Liability and Indemnification.

Grantee shall, at all times, keep in effect the following types of insurance coverage:

- (a) Workforce Liability Insurance upon its employees engaged in any manner in the installation or servicing of its plant and equipment within the City of New Rockford, North Dakota.
- (b) Property damage liability insurance to the extent of Two Hundred Fifty Thousand and No/100 (\$250,000.00) Dollars as to each occurrence and Two Hundred Fifty Thousand and No/100 (\$250,000.00)

Dollars aggregate, and personal injury insurance to
FRANCHISES

the extend of Five Hundred Thousand and No/100 (\$500,000.00) Dollars aggregate. Excess bodily insurance and property damage of One Million and No/100 (\$1,000,000.00) Dollars each occurrence and One Million and No/100 (\$1,000,000.00) Dollars aggregate. Automobile, bodily injury, and property damage liability combined of One Million and No/100 (\$1,000,000.00) Dollars each occurrence.

Operator shall indemnify, protect, and save harmless the City from and against losses and physical damage to property and bodily injury or death to persons, for property within the City, or by any act of Operator, its agents or employees.

Section 5: Technical Standards.

Grantee shall be governed by technical standards established by the Federal Communications Commission.

Suction 6: Operation and Maintenance of System.

- (a) The Operator shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest possible time. Such interruptions in so far as possible shall be preceded by notice and shall occur during periods of minimum use of the system, if possible.
- (b) All service requests and complaints should be responded to within forty-eight (48) hours of receipt.
- (c) If at any time the City, acting through its City board, shall deem it necessary to make any improvements or changes on all or any part of the right of way of the City road which affect a utility located on City highway right of way, then and in such event, the owner of the utility shall within 15 days after written notice from the City chairman or clerk proceed to alter, change, vacate or remove said utility from the City highway right of way so as to conform to said City highway changes and as directed by the City chairman. Such work shall be done without any cost whatsoever to the City and shall be completed within the date specified in said written notice.

Section 7: Emergency Use of Facilities.

In the case of an emergency or disaster, the Operator shall, upon request of the City, make available its facilities to the City for emergency use during the emergency or disaster.

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Section 8: Successors or Assigns.

This Franchise shall be binding upon the Operator, its successors, and assigns.

Section 9: Acceptance.

This grant of Franchise and its terms and provisions shall be accepted by Operator by the submission of a written instrument, executed and sworn by a corporate officer of the Operator before a Notary Public, and filed with the City within sixty (60) days after the effective date of this Franchise.

Section 10: Effective Date.

This Ordinance shall take effect five (5) days from the date of publication and adoption by the City. The Franchise granted by this Ordinance shall not be effective until the Operator files written acceptance thereof,

Section 11: Severability.

Each section, subsection, or portion of this Ordinance shall be severable if any section, subsection, or portion shall be found to be invalid.

Section 12: Notice.

Written notices shall be deemed to have been duly serviced if delivered in person to the individual or the entity for which it was intended, or if delivered by registered or certified U.S. mail to the last business address known to the party who gives notice. All notices and requests shall be address to the City of New Rockford, as follows:

CITY:

City of New Rockford
Auditor
117 1st Street South
New Rockford, ND 58356-1926

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OPERATOR:

North Dakota Telephone Company
211 22nd St. NW
Devils Lake, ND 58301

Section 13: Rates.

Operator shall at all times maintain on file with the City secretary a schedule setting forth all rates and charges to be made to subscribers for all communications services.

During the term hereof, the City may regulate rates only if authorized to do so by the Federal Communications Commission regulations and then such regulations shall only be in accordance with the provision of such regulations.

In the event that the City has the authority to regulate the rates, the following procedure shall be used:

- (a) Before making any change in the rates and charges to subscribers for the Operator's communications services, Operator shall file in writing with the City a new proposed rate change at least thirty (30) days in advance of the proposed effective date for such rate change. If the City takes no action to set the proposed rate change for hearing, said proposed rate change shall become effective upon the expiration of the thirty (30) days notice.
- (b) If the City wishes to hold a hearing on the proposed rate change, the hearing shall be held within forty-five (45) days of the filing of the proposed rate change by Operator. Following the hearing, the City shall take final action on the proposed rate change within thirty (30) days.

9-02-03 Montana-Dakota Utilities Co.

Franchise Granted January 5, 2009

SECTION I. For convenience, herein, said municipal corporation is designated and referred to as "Municipality" and Montana-Dakota Utilities Co. is designated and referred to as "Grantee." Any reference to either includes their respective successors and assigns.

SECTION II. There is hereby granted to Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., a corporation, Grantee, its successors and assigns, subject to the limitations herein stated, the right and franchise to occupy now and use the streets, alleys and

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public grounds of the Municipality as now, or hereafter constituted, for the purpose of constructing, maintaining, and operating, within, upon, in and under the same, a gas distribution system for transmitting and distributing natural or manufactured gas, or a mixture of both, for public and private use.

SECTION III. Grantee shall maintain an efficient distribution system for furnishing natural or manufactured gas, or a mixture of both for public and private use at such reasonable rates as may be approved by the Public Service Commission of the State of North Dakota and under such orders, rules or regulations as may be issued by an federal or state agency having jurisdiction thereof.

SECTION IV. This franchise shall not be exclusive and shall not be construed to prevent the Municipality from granting to any other party the right to use the streets, alleys, and public grounds of the Municipality for like purposes.

SECTION V. The Municipality reserves any right it may have, under its police power, or otherwise, to control or regulate the use of said streets, alleys, and public grounds by Grantee.

SECTION VI. Grantee shall indemnify and save and hold the Municipality harmless from any loss or damage due to the construction, installation, and maintenance of its distribution system, and its use of the streets, alleys, and public grounds of the Municipality.

SECTION VII. Grantee shall have the right to assign this franchise to any party, or corporation, but all obligations of Grantee hereunder shall be binding upon its successors and assigns.

SECTION VIII. Within thirty (30) days after Grantee is notified of passage and final approval of this Ordinance, Grantee shall file with the clerk or auditor of the Municipality its written acceptance of this franchise.

SECTION IX This franchise shall continue and remain in full force and effect for a period of twenty (20) years from the date upon which this ordinance shall become effective as provided by law.

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9-02-04 Northern Plains Electric Cooperative.

An Ordinance granting to Northern Plains Electric Cooperative, a North Dakota Electric Cooperative, its successors and assigns, permission to erect, construct, install and maintain in certain areas within the City of New Rockford, an electric light and power system and transmission line, and to operate the same and to install conduits, poles, wires, pipes and other fixtures in, upon and under the streets, alleys, bridges and public grounds of said City for the purpose of furnishing electric lights, heat and power to the inhabitants thereof.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF NEW ROCKFORD, NORTH DAKOTA, hereinafter called the City:

SECTION 1.

There is hereby granted to Northern Plains Electric Cooperative, its successors and assigns, hereinafter called the Grantee, for a period of ten (10) years, from and after the passage and approval of this Ordinance and during all of said time, subject to the conditions and requirements hereinafter set forth, permission to construct, install and maintain an electric light and power system and transmission line and to operate and maintain the same in the areas hereinafter described within the City and to transmit electricity to and from other towns or cities for the purpose of light, power and heat and to erect, construct, install and maintain conduits, poles, wires, pipes and other necessary fixtures and attachments upon and under the streets, alleys, bridges and public grounds of said City for the purpose of furnishing and selling electricity for light, heat and power and such other purposes for which electricity may be used by the inhabitants of said City, of the hereinafter described areas, said permission and franchise to become operative and continue under the conditions hereinafter set forth, and provided further that this franchise shall be effective for an additional ten (10) years if the City does not elect to terminate said franchise within sixty (60) days prior to the commencement of the second ten-year period.

SECTION 2.

That the areas and parcels of property within the City of New Rockford and being considered under this Ordinance shall be as follows:

Sundberg Addition to the City of New Rockford,
AND
Stenberg Addition to the City of New Rockford,
AND
Watson's Addition to the City of New Rockford,
Eddy County, North Dakota.

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SECTION 3.

Said Grantee shall use poles, wires, crossarms, equipment and devices to conform with the standards of construction adopted by the National Electrical Safety Code of the United States, Department of Commerce, and all apparatus connected therewith shall be located so as not to obstruct the avenues, streets, and alleys of said City or to endanger persons or property or to hinder or to obstruct the use of said avenues, streets, and alleys or public places by the inhabitants of said City, or public in general, or to interfere with any sidewalk, street, curb, gutter or park improvements that the City may deem proper to make along the lines of said avenues, streets, and public places.

SECTION 4.

All conduits, poles, wires and pipes installed by virtue of this Ordinance shall be erected in such places and in such manner as not unnecessarily to encroach upon streets, alleys, bridges or public grounds of said City, and so as not to unnecessarily obstruct the use thereof for the ordinary purpose of travel thereon, and the erection thereof shall be subject to the reasonable supervision and direction of the City Commission of the said City. Whenever practicable, all poles shall be set in alleys and poles now in position upon or along the streets whenever practicable shall be removed, and the location of all of said poles shall be designated by the President of the City Commission under the supervision of the City Commission of the said City.

All poles where set in alleys shall be set at or near the boundary line thereof and where set in streets shall be located at such distances as shall be directed by the City from the property line of the abutting owner, and shall be placed so as not to interfere with the construction or placing of any waterpipes, sewers, or drains or the flow of water therefrom which has been or may be placed by authority of said City. In the event that said Grantee shall make any unnecessary obstructions of said streets, alleys, public grounds or places not designated by the City Commission, the City may cause the removal of such obstructions and charge and collect from such Grantee the actual cost of such removals.

SECTION 5.

During the construction, maintenance or enlargement of any part of said electric light and power system, said Grantee shall not unnecessarily impede or block travel in said streets and highways in said City and shall leave all streets, highways, alleys, sidewalks, curbs, lanes and public places and all grounds disturbed by said construction, in good condition upon the completion of said work.

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The City reserves the right to make and adopt, and the rights and privileges hereby granted shall at all times be and remain subject to such reasonable regulations of a police nature as it may deem necessary for the best interests of the City, but the City will not by any such regulations or by acts of its own or agents do anything to prevent or interfere with the Grantee carrying on its business in accordance with the franchise hereby granted.

SECTION 6.

Whenever the said Grantee in erecting, constructing and maintaining said lines or poles, shall take up any of the pavements, sidewalks, crossing or curbs on any of the avenues, streets and alleys, or public places in said City or shall make any excavations thereon, such excavations shall be refilled and the sidewalk, crossing or curb replaced under the direction of the City and any excavation so made shall be properly lighted at night during the construction, and in case of the failure to do so on the part of the said Grantee, then the City may do the same at the expense of said Grantee and said Grantee agrees to pay said City for the reasonable cost or value of said work. Said Grantee shall be liable for all loss or damage caused by the negligence of Grantee, which may result to persons or property within the said City, caused by it, or its agents, servants, or employees in erecting, operating and maintaining the said electric system within said City and shall at all times save the City harmless from any and all damages to persons or property in erecting, operating or maintaining said electric system.

SECTION 7.

There is granted to said Grantee, its successors and assigns, during the term hereof, permission and authority to trim all trees in alleys, streets and public grounds of said City so as to remove all parts of said trees interfering with the proper erection, maintenance and operation of poles, cables, wires, masts or other fixtures, or appliances installed or to be installed pursuant to authority hereby granted.

Said Grantee shall have full right and authority to assign to any person, persons, firm or corporation all the rights that are given it by this Ordinance, provided that the assignee of such rights by accepting such assignment shall become subject to the terms and conditions of this Ordinance.

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SECTION 8.

The Grantee shall use due diligence and care in furnishing electric service as herein provided but shall not be liable for any loss or damage which may arise from failure of the service, either partial or total, but this shall not be construed to exempt said Grantee from liability for negligence.

SECTION 9.

The Grantee shall have the right to require any person to whom electric service is furnished to make a deposit to insure the payment of bills for service to be rendered. The Company shall issue a receipt for such deposit and shall return same whenever the customer shall discontinue the use of electric service, provided all bills are then paid. The Grantee may apply all or any portion of the deposit to any unpaid bills and shall thereupon mail to the customer a receipt for such amount.

SECTION 10.

The rates to be charged by said Grantee in the areas above described shall be such rates as adopted by the Board of Directors of the Grantee and approved by the Rural Electrification Administration.

SECTION 11.

This contract shall be subject to any present or future laws enacted by the State of North Dakota, or any amendment or addition to such laws.

SECTION 12.

It is further expressly and specifically provided that all permits, licenses and franchises heretofore granted by the City giving or purporting to give permission to any person, persons or corporation to construct, install or maintain an electrical line or system in, upon or through the streets, alleys or public grounds of the City for the purpose of furnishing light, heat and power to the inhabitants of the areas within the City of New Rockford hereinbefore described be, and the same hereby are in all respects revoked, cancelled and annulled. It being the intent of the parties hereto that this Franchise shall not be considered an exclusive franchise.

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SECTION 13.

In further consideration of the granting of this franchise, Northern Plains Electric Cooperative agrees to protect and safeguard the City of New Rockford and its City Commission and the members thereof, from any and all claims and demands from any persons, firms or corporations whatsoever on account of the granting of said franchise or the rights thereunder, and to reimburse said City, its Commission and members thereof, for any reasonable expense, legal or otherwise, resulting therefrom.

SECTION 14.

This ordinance shall take effect and be in full force from and after its passage and approval by the City Commission. The said Grantee shall specify its acceptance of this franchise in writing, to be filed with the City Auditor and in no event shall this Ordinance be binding on said Grantee until the filing of such acceptance.

FIRST READING:	<u>September 6, 2011</u>
SECOND READING:	<u>October 3, 2011</u>
FINAL PASSAGE:	<u>October 3, 2011</u>

9-02-05 Tri-County Electric Cooperative, Inc.

Combined with 9-02-04

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9-02-06 Otter Tail Power Company

ORDINANCE NO. 16-117

Approved June 2, 2014

An Ordinance granting to the Otter Tail Corporation, a Minnesota Corporation, its successors and assigns, permission to erect, construct, install and maintain within the City of New Rockford, an electric light and power system and transmission lines and to operate the same and to install conduits, poles, wires, pipes and other fixtures in, upon and under the streets, alleys, bridges, and public grounds of said City for the purpose of furnishing electric light, heat and power to said City and the inhabitants thereof.

BE IT ORDAINED, BY THE CITY COMMISSION OF THE CITY OF NEW ROCKFORD Hereinafter called the "City":

SECTION I

There is hereby granted to Otter Tail Corporation, a Minnesota Corporation, its successors and assigns, hereinafter called the Grantee, for a period of 20 years from and after the passage and approval of this Ordinance and during all of said time, subject to the conditions and requirements hereinafter set forth, permission to construct, install and maintain an electric light and power system and transmission lines and to operate and maintain the same within and through the City and to transmit electricity to and from other towns or cities for the purpose of light, power and heat and to erect, construct, install and maintain conduits, poles, wires, pipes and other necessary fixtures and attachments upon and under the streets, alleys, bridges and public grounds of said City for the purpose of furnishing and selling electricity for light, heat and power and such other purposes for which electricity may be used by the inhabitants of said City, said permission and franchise to become operative and continue under the conditions hereinafter set forth.

SECTION 2

Said Grantee shall use poles, wires, cross arms, equipment and devices to conform with the standards of construction adopted by the National Electrical Safety Code of the United States, Department of Commerce, and all apparatus connected therewith shall be located so as not to obstruct the avenues, streets, and alleys of said City or to endanger persons or property or to hinder or to obstruct the use of said avenues, streets, and alleys for public places by the inhabitants of said City, or public in general, or to interfere with any street, sidewalk, curb, gutter or park improvements that the City may deem proper to make along the lines of said avenues, streets and public places.

SECTION 3

All conduits, poles, wires and pipes installed by virtue of this Ordinance shall be installed in such places and in such manner as not unnecessarily to encroach upon streets, alleys, bridges, or

public grounds of said City, and so as not to unnecessarily obstruct the use thereof for the ordinary purpose of travel thereon, and the erection thereof shall be subject to the reasonable supervision and direction of the City Commission of the said City. Whenever practicable, all poles shall be set in alleys, and poles now in position upon or along the streets, whenever practicable, shall be removed, and the locations of all of said poles shall be designated by the Mayor under the supervision of the City Commission of the said City.

All poles where set in alleys shall be set at or near the boundary line thereof, and where set in streets shall be located at such distances, as shall be directed by the city, from the property line of the abutting owner, and shall be placed so as not to interfere with the construction of placing of any water pipes, sewers, or drains or the flow of water therefrom which have been or may be placed by authority of said City. In the event that said Grantee shall make any unnecessary obstruction of said streets, alleys, public grounds or places not designated by the City Commission, the City may cause the removal of such obstructions and charge and collect from such Grantee the actual cost of such removals.

SECTION 4

During the construction, maintenance or enlargement of any part of said electric light and power system, said Grantee shall not unnecessarily impede or block travel in said streets and highways in said City, and shall leave all streets, highways, alleys, sidewalks, curbs, lanes and public places and all grounds disturbed by said construction in good condition upon the completion of said work.

The City reserves the right for itself and its agents to make and adopt, and the rights and privileges hereby granted shall at all times be and remain subject to, such reasonable regulations of a police nature as it may deem necessary for the best interests of the City but the City will not by an such regulations or by acts of its own or agents do anything to prevent or interfere with the Grantee carrying on its business in accordance with the franchise hereby granted.

SECTION 5

Whenever the said Grantee in erecting, constructing and maintaining said lines or poles, shall take up any of the pavements, sidewalks crossings or curbs on any of the avenues, streets and alleys or public places in said City or shall make any excavations thereon; such excavations shall be refilled and the sidewalk, crossing or curb replaced under the direction of the said City and any excavation so made shall be properly lighted at night during the construction, and in case of the failure to do so on the part of the said Grantee, then the said City may do the same at the expense of said Grantee and said Grantee agrees to pay said City for the reasonable cost or value of said work. Said Grantee shall be liable for all loss or damage caused by the negligence of Grantee, which may result to persons or property within the said City, caused by it, or its agents, servants, or employees in erecting, operating and maintaining the said electric system within said City, and shall at all times save the City harmless from any and all damages to persons or property in erecting, operating or maintaining said electric

system.

SECTION 6

There is granted to said Grantee, its successors and assigns, during the term hereof, permission and authority to trim all trees in alleys, streets and public grounds of said City so as to remove all parts of said trees interfering with the proper erection maintenance and operation of poles, cables, wires, masts or other fixtures, or appliances installed or to be installed pursuant to authority hereby granted.

Said Grantee shall have full right and authority to assign any person, persons, firm or corporation all the rights that are given it by this Ordinance, provided that the assignee of such rights by accepting such assignment shall become subject to the terms and conditions of this Ordinance.

SECTION 7

The Grantee shall use due diligence and care in furnishing electric service as herein provided but shall not be liable for any loss or damage which may arise from failure of the service, either partial or total, but this shall not be construed to exempt said Grantee from liability for negligence.

SECTION 8

The rates to be charged by said Grantee in the said City shall be filed with the Public Service Commission of the State of North Dakota, and no increase or decrease in said rates shall be made except in accordance with the rules and regulations of the Public Service Commission.

SECTION 9

This contract shall be subject to any present or future laws of a regulatory nature enacted by the State of North Dakota, or any amendment or addition to such laws, and further shall be subject to the rules and regulations laid down by the Public Service Commission of the State of North Dakota.

SECTION 10

The City reserves the right during the term hereof to enact and assess a franchise fee such as it deems necessary, upon reasonable advance notice to Grantee of not less than thirty (30) days.

SECTION 11

In the event the City should sell or transfer real property which is subject to Grantee's franchise and should it become necessary to remove conduits, poles, wires or pipes installed by virtue of this ordinance the removal shall be done at the expense of the Grantee upon the request of the City.

SECTION 12

This Ordinance shall take effect and be in full force from and after its passage and approval by the City Council. The said Grantee shall specify its acceptance of this franchise in writing, to be filed with the City Auditor and in no event shall this Ordinance be binding on said Grantee until the filing of such acceptance.

9-02-07 MIDCONTINENT COMMUNICATIONS.

AN ORDINANCE GRANTING A FRANCHISE TO MIDCONTINENT COMMUNICATIONS, G.P., A SOUTH DAKOTA GENERAL PARTNERSHIP TO MAINTAIN A CABLE COMMUNICATIONS SYSTEM IN THE CITY OF NEW ROCKFORD, NORTH DAKOTA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS

The City Commission of the City of New Rockford ordains:

FINDINGS

In the review of the Renewal Proposal and application of Mideontinent Communications, G.P. ("Grantee"), and as a result of a public bearing, the City Conitnission makes the following findings:

- 1.) The Grantee's technical ability, financial condition, legal qualificatons, and character were considered and approved in a full public proceeding afier due notice and a reasonable opportunity to be heard;
- 2.) Grantee's plans for operating the System were considered and found adequate and feasible in a lull public proceeding after due notice and a reasonable opportunity to be heard; and
- 3.) The Franchise granted to Grantee by the City complies with the existing applicable North Dakota Statutes, federal laws, and regulations.

SECTION 1.

SHORT TITLE AND DEFINITIONS

- 1.) Short Title. This Franchise Ordinance shall be blown and cited as the Cable Communications Ordinance.
- 4.) Definitions. For the purposes of this Franchise, the following terms, plirases, words, and their derivations shall have the meaning given herein. when not inconsistent with the context, words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The word "may" is directory and

discretionary and not mandatory.

(a) "Basic Cable Service" means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. §543(4)(7).

1.

(b) "Cable Programming Service" means any Video Programming provided over a Cable System, regardless of service tier, including installation or rental of equipment used for the receipt of such Video Programming, other than:

- (1) Video Programming carried on the Basic Service Tier;
- (2) Video Programming offered on a pay-per-channel or pay-per-program basis; or
- (3) A combination of multiple channels of pay-per-channel or pay-per-program Video Programming offered on a multiplexed or time-shifted basis so long as the combined service:
 - a. consists of commonly-identified Video Programming;
and
 - b. is not bundled with any regulated tier of service.

Cable Programming Service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. §543(1)(2) and 47 C.F.R. 76.901(b) (1993).

(c) "Cable Service" means the one-way transmission to Subscribers of Video Programming, or other programming service, and Subscriber interaction, if any, which is required for the selection of such Video Programming or other programming service.

(d) "Cable System" or "System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include.

- (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations;
- (2) a facility that serves Subscribers without using any public right-of-way;

- (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§201 et seq., except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. §541(c) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;
- 2.
- (4) an open video system that complies with 47 U.S.C. §653; or
- (5) any facilities of any electric utility used solely for operating its electric utility systems.
- (e) "City" means City of New Rockford, a municipal corporation, in the State of North Dakota, acting by and through its City Commission.
- (f) "City Commission" means the City of New Rockford, ND City Commission.
- (g) "Drop" means the cable that connects the ground block on the Subscriber's residence to the nearest feeder cable of the System.
- (h) "FCC" means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
- (i) "Franchise" means an initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to 47 U.S.C. §546) issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a Cable System.
- (j) "Grantee" is Milcontinent Communications, G.P., its agents and employees, lawful successors, transferees or assignees.
- (k) "Gross Revenue" means all revenue received from Basic Cable Service, and Cable Programming Service directly by the Grantee from the operation of its System within City. The term "Gross Revenues" shall not include revenues from pay television, installation fees, disconnection fees, upgrade and downgrade of service fees, fees for telecommunications services, if any, fees for the sale, leasing, or servicing of equipment, franchise fees, advertising revenues, late fees, any fees itemized and passed through as a result of franchise imposed requirements or any taxes or fees on services furnished by Grantee imposed directly on any Subscriber or user by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.
- (l) "Installation" means the connection of the System from feeder cable to the point of connection, including Standard Installations and custom installations.
- (m) "Lockout Device" means an optional mechanical or electrical accessory to a Subscriber's

terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the Cable Communication System.

3.

- (n) "Multichannel Video Program Distributor or MVPD" means a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming.
- (o) "Open Video Services or OVS" means any video programming Services provided to any person by a Franchisee certified by the FCC to operate an Open Video System pursuant to Section 47 U.S.C. 573, as maybe amended, regardless of the Facilities used.
- (p) "Pay Television" means the delivery over the System of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Cable Programinirig Services.
- (q) "Person" is any person, firm, partnership, association, corporation, company, or other legal entity.
- (r) "Standard Installation" means any residential installation which can be completed using a Drop of one hundred fifty (150) feet or less.
- (s) "Street" means the surface of and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafier held by City.
- (t) "Subscriber" means any Person who lawfully receives Cable Television Service.
- (u) "Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

SECTION 2.

GRANT OF AUTHORITY AND GENERAL PROVISIONS

- 1.) Franchise Required. It shall be unlawful for any Person to construct, operate or maintain a Cable System or to provide Cable Service or other competing M'VPD services, including OVS, in the City without a Franchise in the form of a Franchise Agreement authorizing the same, unless applicable federal or State law prohibits the City's enforcement of such a requirement.
- 2.) Grant of Franchise. This Franchise is granted pursuant to the terms and conditions contained herein.

4.

3.) Grant of Nonexclusive Authority.

- (a) The Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the Streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof and additions thereto in City, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in City of a Cable Communications System as herein defined.
- (b) This Franchise shall be nonexclusive, and City reserves the right to grant a similar use of said Streets, alleys, public ways and places, to any Person at any time during the period of this Franchise, provided, however, that any additional Cable Franchise grants shall be under the same substantive terms and conditions as this Franchise. In the event the City fails to comply with this section, Grantee shall not be obligated to comply with any provision which is not the same as that granted to a competitor.

4.)

Franchise Term.

- (a) This Franchise shall be in effect for a period of fifteen (15) years from the date of acceptance by Grantee, unless renewed, revoked, or terminated sooner as herein provided.
- (4) In the event City grants one or more additional Franchises or one or more non-franchised MVPD's commence providing Cable Service in the City, Grantee shall have the right to terminate or reduce the term of this Franchise in its sole discretion.

5.) Previous Franchises. Upon acceptance by Grantee as required by Section 9 herein, this Franchise shall supersede and replace any previous Ordinance or Agreement granting a Franchise to Grantee to own, operate and maintain a Cable Communications System within City.

6.) Rules of Grantee. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligation under this Franchise.

7.) Territorial Area Involved.

This franchise is granted for the corporate boundaries of City, as it exists from time to time. In the event of annexation by City, or as development occurs, any new territory shall become part of the area covered, provided, however, that Grantee shall not be required to extend service beyond four hundred feet (400') from existing distribution lines except upon payment by such residents of the capital costs incurred by the Grantee in bringing service to such residents.

5.

Grantee may negotiate directly with such customers the amount to be charged for bringing service to the customer.

S.) Written Notice. All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of Grantee or City's Administrator of this Franchise or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City of New Rockford
 117 1st Street South
 New Rockford, ND 58356
 Attn: City Auditor

If to Grantee: Midcontinent Communications, G.P.
 5001 W. 41st Street
 Sioux Falls, SD 57106-1424
 Attn: W. Thomas Simmons

Such addresses may be changed by either party given as provided in this Section.

upon notice to the other party

9.) Drops to Public Buildings. Grantee shall provide standard Installation of one (1) cable Drop, one (1) cable outlet, and monthly Basic Cable Service without charge to one (1) City Owned Building other than a hospital, nursing home, apartment building or airport, within one hundred fifty (150) feet of the System upon request of the City, and to all public and private elementary and secondary schools, excluding home schools, located in the City within one hundred fifty (150) feet of the System upon request of the school system.

No redistribution of the free Basic Cable Service provided pursuant to this Section shall be allowed. Additional Drops and/or outlets in any of the above locations will be provided by Grantee at the cost of Grantee's time and material. Alternatively, at the institution's request, said institution may add outlets at its own expense, as long as such installation meets Grantee's standards and provided that any fees for Cable Communications Services are paid. Nothing herein shall

be construed as requiring Grantee to extend the System to serve additional institutions as may be designated by City. Grantee shall have one (1) year from the date of City Commission designation of additional institution(s) to complete construction of the Drop and outlet.

6.
SECTION 3.

CONSTRUCTION STANDARDS

1.)

Construction Codes and Permits.

- (a) Grantee shall obtain all required permits from City before commencing any construction upgrade or extension of the System, including the opening or disturbance of any Street, or private or public property within City.
- (b) The City shall impose no permit fees upon Grantee.
- (c) The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise and to make such tests at its own expense as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law.

2.) Repair of Streets and Property. Any and all Streets or public property or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly and fully restored by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work.

3.)

Conditions on Street Use.

- (a) If at any time during the period of this Franchise City shall elect to alter, or change the grade or location of any Street, alley or other public way, the Grantee shall, at its own expense, upon reasonable notice by City, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System, and in each instance comply with the standards and specifications of City. If City reimburses other occupants of the Street, Grantee shall be likewise reimbursed.
- (b) The Grantee shall, on request of any Person holding a moving permit issued by City, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the Person requesting the same, and the Grantee shall be given not less than ten (10) days advance notice to arrange for such temporary changes.
- (c) The Grantee shall have the authority to trim any trees upon and overhanging the Streets, alleys, sidewalks, or public easements of City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee.

7.

- (d) Notwithstanding contained in this Franchise shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities.

4.)

Undergrounding of Cable.

(a) In all areas of City where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground.

(13) In any area of City where one or more public utilities are aerial, Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.

5.) Safety Requirements. The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

SECTION 4.

SYSTEM PROVISIONS

- 1.) Operation and Maintenance of System. The Grantee shall render effective service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible.
- 2.) Technical Standards. The System shall comply, at minimum, with the technical standards promulgated by the FCC found in Title 47, Section 76.601 to 76.617, as may be amended or modified from time to time.
- 3.) Lockout Device. Upon the request of a Subscriber, Grantee shall provide by sale or lease a Lockout Device.

SECTION 5.

SERVICES PROVISIONS

- 1.) Subscriber Inquiry and Complaint Procedures. Grantee shall have a publicly listed toll-free telephone number and be operated so as to receive Subscriber complaints and requests on a twenty-four (24) hour-a-day, seven (7) days-a-week basis.
- 2.) Refund Policy. In the event a Subscriber established or terminates service and receives less than a full month's service, Grantee shall prorate the monthly rate on

8.

the basis of the number of days in the period for which service was rendered to the number of days in the billing.

SECTION 6.

OPERATION AND ADMINISTRATION PROVISIONS

1.)

Indemnification of Ciwi

- (a) Grantee shall indemnify, defend, and hold harmless City, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all liability, damages, and penalties which they may legally be required to pay as a result of the exercise of the Franchise, except claims covered by worker's compensation insurance.
- (b) Nothing in this Franchise relieves a Person from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantees facilities while performing work connected with grading, regarding, or changing the line of a Street or public place or with the construction or reconstruction of a sewer or water system.
- (c) In order for City to assert its rights to be indemnified, defended, and held harmless, City must with respect to each claim:
 - (1) Promptly notify Grantee in writing of any claim or legal proceeding which gives rise to such right;
 - (2) Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and
 - (3) Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to paragraph two (2) above.

2.) Insurance.

As a part of the indemnification provided in Section 6.1, but without limiting the foregoing, Grantee shall file with its acceptance of this Franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy, including contractual liability coverage, in protection of City in its capacity as such. The policies of insurance shall be in the sum of not less than Three Hundred Thousand Dollars (\$300,000) for personal injury or death of any one Person, and One Million Dollars (\$1,000,000) for personal injury or death of two or more Persons in any one occurrence, Three Hundred

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3.)

Thousand Dollars (\$300,000) for property damage to any one Person and One Million Dollars (\$1,000,000) for property damage resulting from any one act or occurrence.

Franchise Fee.

- (a) Grantee will pay City an annual franchise fee in the amount of one and one-half (1.5%) percent of Grantee's annual Gross Revenues.
- (b) Payment shall be made on or before December 31 of each year during the term of this Ordinance.
- (c) Payments shall be in lieu of any occupation tax, license tax, or similar levy by the City, and shall be the sole amount payable for all Grantee's rights under this Ordinance including, but not limited to, the use of the streets and other facilities of the City in the operation of the Cable System and for the municipal supervision thereof and shall be in lieu of any other occupation tax or franchise fee.

SECTION 7.

REVOCATION, ABANDONMENT, AND SALE OR TRANSFER

- 1.) City's Right to Revoke. In addition to all other rights which City has pursuant to law or equity, City reserves the right to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if after the hearing required by Section 7.2(4) herein, it is determined that Grantee has violated any material provision of this Franchise.
- 2.) Procedures for Revocation.
 - (a) City shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the Franchise. Together with the notice required herein, City shall provide Grantee with written findings of fact which are the basis of the revocation.
 - (4) Grantee shall be provided the right to a public hearing affording due process before the City Commission prior to revocation, which public hearing shall follow the sixty (60) day notice provided in paragraph (a) above. City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.

10.

- (c) After the public hearing and upon written determination by City to revoke the

Franchise, Grantee may appeal said decision with an appropriate state or federal court or agency.

- (d) During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.
 - (e) Upon satisfactory correction by Grantee of the violation upon which said notice was given, the initial notice shall become void.
- 3.) Sale or Transfer of Franchise. No sale or transfer of this Franchise shall take place without the written approval of the City, which approval shall not be unreasonably withheld. All of the rights, privileges, obligations, duties, and liabilities created by this Franchise shall pass to and be binding upon the successor or assign of Grantee. Said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure indebtedness.

SECTION 8.

MISCELLANEOUS PROVISIONS

- 1.) Franchise Renewal. Any renewal of this Franchise shall be done in accordance with applicable federal, state and local laws and regulations.
- 2.) Amendment of Franchise Ordinance. Grantee and City may agree, from time to time, to amend this Franchise. Such written amendments may be made at any time if City and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws. City shall act pursuant to local law pertaining to the ordinance amendment process.
- r3ni) Subscriber Privacy. Grantee shall comply with the terms of 47 U.S.C. §551 relating to the protection of subscriber privacy.

SECTION 9.

PUBLICATION, EFFECTIVE DATE AND ACCEPTANCE

- 3.) Publication Effective Date. This Franchise shall be published in accordance with applicable North Dakota law. The effective date of this Franchise shall be the date of acceptance by Grantee in accordance with the provisions of Section 9.2.

4) Acceptance

- (a) Grantee shall accept this Franchise by executing same. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes.
- (1.) Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein.
- (c) Grantee shall accept this Franchise in the following manner:
 - (1) This Franchise will be properly executed and acknowledged by Grantee and delivered to City.
 - (2) With its acceptance, Grantee shall also deliver any insurance certificates required herein that have not previously been delivered.

Passed and adopted this 5th day of December 2005.

ATTEST:

CITY OF NEW ROCKFORD

By

By:

Its

ACCEPTED: This Franchise is accepted and we agree to be bound by its terms and conditions.

MIDCONTINENT COMMUNICATIONS, G.P., A
SOUTH DAKOTA GENERAL PARTNERSHIP

Dated

By

W. Tom Simmons

First Reading:

Its: Vice President of Public Policy

Second Reading _____

Adopted and Passed

Published:

Effective Date

CHAPTER 10

PUBLIC NUISANCES

Article I.

GENERAL

10-01-01 Nuisance Defined.

A nuisance consists in unlawfully doing an act, or omitting to perform a duty, or the creation of circumstances or conditions, or the resulting object thereof which act, omission, circumstance, condition or object:

- A. Annoys, injures, or endangers the comfort, health, or safety of others.
- B. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous the use or enjoyment of property.
- C. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake, navigable river, bay, stream, canal, basin, or public park, square, street, or highway.

Article 2.

ILLUSTRATIVE ENUMERATIONS

10-02-01 Definitions.

The following words or terms when used herein shall be deemed to have the meanings set forth below:

- A. "Abandoned Vehicle" shall include without limitation any vehicle which has remained on private property for a period of forty-eight (48) hours, or more, without consent of the owner or occupant of the property or for a period of forty-eight (48) continuous hours or more, after the consent of the owner or occupant has been revoked or that has illegally or lacking vital parts remained on public property more than forty-eight (48) hours.
- B. "Blighted Structure" shall include without limitation any dwelling, garage, or outbuilding, or any factory, shop, store, warehouse, or any other structure or part of a structure which because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended.

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- C. "Building Materials" shall include without limitation lumber, brick, concrete or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.
- D. "Collector" shall mean the owner of one (1) or more special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest vehicles or parts thereof for his own use in order to restore, preserve, and maintain a special interest vehicle or antique vehicle.
- E. "Dangerous Buildings" shall include those buildings defined under Section 7-05-03.
- F. "Junk" shall include without limitation parts of machinery or motor vehicles, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal or any other castoff material of any kind, whether or not the same could be put to any reasonable use.
- G. "Junk Automobiles" shall include any motor vehicle which is not licensed for use upon the highways of the State of North Dakota for a period in excess of sixty (60) days and shall also include whether licensed or not any motor vehicle which is inoperative for any reason for a period in excess of sixty (60) days, provided that there is excepted from this definition:
- (1) unlicensed but operative vehicles which are kept as a stock in trade of a regularly licensed and established new or used automobile dealer;
 - (2) unlicensed, operable or inoperable, vehicles and parts cars on a collector's property provided that the storage area is not a health hazard and the vehicles are screened from ordinary public view.
- H. "Substandard Structure" shall include:
- (1) Any building, shed, fence, or other man-made structure which is dangerous to the public health because of its condition and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures.
 - (2) Any building, shed, fence, or other man-made structure, which by reasons of faulty construction, age, lack of, proper repair, or any other cause, is especially liable to fire and constitutes or creates a fire hazard.

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- (3) Any building, shed, fence or other man-made structure, which by reasons of faulty construction or any other cause, is liable to cause injury or damage by collapsing or by collapse or fall of any part of such structure.
- (4) Any building, shed, fence or other man-made structure, which because of its condition or because of lack of doors or windows is available to and frequented by malefactors or disorderly persons who are not lawful occupants of such structure.
- (5) Any building, shed, fence, or other man-made structure, which is permitted by the owner to remain in a dilapidated condition.
- (6) Any building, shed, fence, or other man-made structure, which has been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the City of New Rockford.
- (7) Any building or man-made structure which has become so dilapidated, decayed, unsafe, unsanitary, or which so utterly fails to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein.
- (8) Any building, shed, fence, or other man-made structure, existing in violation of the provision of the Building Code of this City, or any provision of the Fire Prevention Code or other ordinances of this City.
- (9) Any buildings or dwelling units defined under Section 7-04-12.

I. "Trash and Rubbish" shall include any and all forms of debris not herein otherwise classified.

10-02-02 Acts Declared a Nuisance.

The following acts, among others, are declared to be prohibited nuisances in violation of this chapter, but such enumeration is not exclusive:

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- A. Fireworks: The use or display of fireworks except as provided by this code.
- B. Handbills: The distribution of handbills except as provided by this code.
- C. Scattering Advertisement: The scattering or throwing upon the streets, sidewalks, alleys, or public places, handbills and advertisements or papers.
- D. Betting: Betting, bookmaking, and all apparatuses used in such occupations.
- E. Littering: To throw, drop, cast, or deposit upon any street, alley, sidewalk, or any yard or premises, public or private, any filth of any kind, or cans, paper, trash, paper container, rubbish, bottles, or any other form of litter or waste matter.
- F. Filth, Slops Offal, Manure Etc. Not to be Left or Deposited in City: To throw, place, or conduct, or direct a child, servant, or agent to throw, place, or conduct into or upon any street, lane, avenue, alley, lot, or premises, any putrid or unsound beef, pork, fish, hides or skins of any kind or any filth, slops offal, or manure, dead animals, vegetables, or other unsound or offensive matter or thing whatever, or any thing or matter whatsoever, which by putrefaction or decomposition will produce an offensive smell or effluvia, nor to allow any such filth, slops, offal, or other substance or thing aforesaid, to be or remain upon their premises, or in any outhouse, stable, privy, or other place owned or occupied by them, or in any street, lane, avenue, alley, in front of or adjoining to such premises, in such a manner as to be offensive to the neighborhood or dangerous to the public health.
- G. Slaughtering Within City Limits Prohibited: To slaughter any cattle, hogs, or sheep or other animal in any house, barn, or outhouse, shed, or other tenement or in any yard, lot, street, or ground within the limits of the city of New Rockford without permission from the Board of City Commissioners first had and obtained, to use, or cause to be used any house, barn, outhouse, or other tenement within the limits of said City for slaughtering cattle, hogs, sheep, or other animals therein, without having first obtained such permission.
- H. Hog Pens: To build or maintain, make, or use or shall hereafter cause to be built or maintained any hog pen that shall be used for keeping hogs within the corporate limits of the City of New Rockford, without the written permission of

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the Mayor first had and obtained, subject however, to the approval of the Board of City Commissioners.

- I. Storage of Junk, Junk Automobiles etc. Contrary to Public Health and Safety. It is hereby determined that the storage or accumulation-of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, and the maintenance of blighted structures upon any private property within the city of New Rockford tends to result in blighted and deteriorated neighborhoods, the increase in criminal activity, the spread of vermin and disease, and is contrary to the public peace, health, safety and general welfare of the community.
- J. Unlawful to Store or Accumulate Junk, Junk Automobiles etc. It shall be unlawful for any person to store, or permit the storage of accumulation of trash, rubbish, junk, junk automobiles or abandoned vehicles on any private property in the City of New Rockford, except within a completely enclosed building or upon the business premises of a junk dealer or junk buyer, and complying with the provisions of the Zoning Ordinance, dealer in used auto parts, dealer in secondhand goods or junk gatherer.
- K. Unlawful to Dismantle Automobile Except on Business Premises. It shall be unlawful for any person to dismantle, cut up, remove parts from or otherwise disassemble any automobile, whether or not the same be a junk automobile, abandoned vehicle or otherwise, or any appliance or machinery, except in a completely enclosed building, or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or junk gatherer.
- L. Unlawful to Maintain Blighted Structure. It shall be unlawful for any person to keep or maintain any blighted or vacant structure, dwelling, garage, outbuilding, factory, shop, store or warehouse, unless the same is kept securely locked, the windows kept glazed or neatly boarded up, and otherwise protected to prevent entrance thereto by unauthorized persons or unless such structure is in the course of construction in accordance with a valid building permit issued by the City of New Rockford, and unless such construction is completed within a reasonable time.
- M. Unlawful to Store Building Materials Except on Business Premises. It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property, except in a completely enclosed building or except where such building materials are part of the stock

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in trade of a business located in said property, or except when such materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the City of New Rockford, and unless such construction is completed within a reasonable time.

- N. General: All other acts, omissions of acts, occupations, and uses of property which are in fact a menace to the public comfort, health, safety, particularly those relating to definitions set out in Section 10-02-01.

10-02-03 Omission of Duties Declared a Nuisance.

The following omissions of duties, among others, are declared to be prohibited nuisances in violation of this chapter, but such enumeration is not exclusive:

- A. Snow Removal: The failure to remove snow and ice from public sidewalks within the time required by this code.
- B. Obstructions: The allowing of rain-water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.
- C. Sale of Poison: To lend, sell, give away, or deliver any deadly poison, knowing the same to be such, without marking the same in plain, legible, printed characters: "POISON."
- D. Butchers, Grocers, Milk Dealer, Etc., to Allow Officers to Inspect: For every owner or manager or other person in charge of slaughter houses, and every butcher, grocer, milk dealer, and their agents not to allow the parties authorized by the Board of Health to freely and fully inspect their cattle and milk, fish and vegetables, sold, held, offered, or intended for sale, and to answer all reasonable questions asked by such persons relative thereto, and of the places where such articles may be.
- E. Noxious Weeds and Grass: No owner of any lot, place or area within the City of New Rockford, or the agent of such owner, shall permit on such lot, place or area and the one-half of any road or street lying next to the lands or boulevards abutting thereon noxious weeds; other deleterious unhealthful growths or to allow the grass or growth of plants to a height of more than six inches (6"). In the case of grass which has reached a height of more than 6 inches, no Notice of Abatement need be served on said owner or agent; the City may take action to immediately cut said grass, and the cost thereof shall be assessed against the owner of said premises.

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10-02-04 Creation of Circumstance or Condition Declared a Nuisance.

The following circumstances and conditions, among others, are declared to be prohibited nuisances in violation of this chapter, but such enumeration is not exclusive.

- A. Explosives: All explosives, inflammable liquids, and other dangerous substances stored in any manner or in any amount other than is provided by this code.
- B. Obstruction at Intersections: All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles approaching an intersection of public highways from having a clear view of traffic approaching such intersection from cross streets.
- C. Overhanging Limbs: All limbs of trees which project over a public sidewalk or street and which are less than eight (8) feet above the surface of such public sidewalk and nine (9) feet above the surface of such street.
- D. Accumulation: Accumulations of manure, tin cans, boxes, decayed animal matter, decayed vegetable matter, or rubbish which are breeding places for flies, mosquitoes, or vermin.
- E. Noises: All loud, unnatural, disturbing or unusual noises and annoying vibrations which offend the peace and quiet of persons of ordinary sensibilities.
- F. Obstructions: Obstructions and excavations affecting the ordinary use of the public streets, alleys, and sidewalks, or public grounds except under such conditions as are provided by ordinance. This includes the parking of semi-trailer units on residential streets or on any streets bordering on Block 17, Original Townsite, City of New Rockford, ND. Said semi-trailer units may be parked only for periods not to exceed four (4) hours and in no event shall they be parked overnight on any residential street.
- G. Assembly: Any use of the public streets or sidewalks which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk.
- H. Machinery: All dangerous, unguarded machinery in any public place or so situated or operated on private property so as to attract the public.

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- I. Water Pollution: The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, creamery, or industrial waste, or other substances.
- J. Privies, Barns, Stables: Any privy, barn, stable, livery stable, cow yard, shed, hog pen, or sty within the City kept, suffered, or allowed to be or remain in such a condition that the smell or effluvia arising therefrom shall become offensive or nauseous to any portion of the citizens, or as to endanger the public health.
- K. Cellar, Vault, Private Drain: Any cellar, vault, private drain, cesspool, sewer, or grounds that becomes nauseous, foul, or offensive to any portion of the citizens or injurious or dangerous to the public health.
- L. Buildings Not Allowed to Become Foul: Any grocery, cellar, distillery, tannery, tallow chandler shop, soap factory, butcher shop, meat market, dye shop, saloon, or other house, tenement or factory within the City kept, used, or carried on in such a situation or condition as to become nauseous or offensive to the neighborhood or to any of the citizens, or as to endanger the public health, and all other offensive or noxious smoke stench, fumes, gas, soot, or cinder as to become an uncomfort to a person of ordinary sensibilities.
- M. Stagnant Water: Stagnant water allowed to stand or remain along the line of any railroad, street, highway, alley, public place, or upon. or along any public or vacant lot or place within the City.
- N. Blighted Structures: All buildings, walls, and other structures which have been damaged by fire, decay, or otherwise, and which are so situated as to endanger the safety of the public.
- O. Violation of Fire Zones: All buildings and all alterations to buildings made or erected within the fire limits as established by ordinance in violation of the ordinances concerning manner and materials of construction.
- P. Substandard Building: To maintain or permit the existence of any substandard building or structure in the City of New Rockford or for the owner, occupant, or person in custody of any building or structure which has been declared to be substandard to permit the same to remain in a substandard condition or to occupy such building or structure or permit it to be occupied while it is or remains in a substandard condition. SEE Section 7-04-12 for further details.

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10-02-05 Objects Declared Nuisances.

The following objects, among others, are declared to be prohibited nuisances in violation of this chapter, but such enumerations is not exclusive.

- A. Unwholesome Food: All decayed or unwholesome food offered for sale to the public.
- B. Animals at Large: All animals, pigeons, or domestic fowl running at large.
- C. Dead Animals: Carcasses of animals not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.
- D. Stagnant Water: All ponds, pools of water, or vessels holding stagnant water.
- E. Fly Attractions: Privy vaults and garbage cans which are not fly-tight .
- F. Hanging Structures: All hanging signs, awnings, and other similar structures over the streets or sidewalks so situated or constructed as to endanger public safety.
- G. Wires Over Public Ground: All wires over streets, alleys, or public grounds which are strung less than fifteen (15) feet above the surface of the ground.
- H. Gambling Devices: All gambling devices, slot machines, and punch boards and all games of chance, gambling, and betting; except those authorized and licensed under State Law and this code.
- I. Houses of Prostitution: All houses kept for the purpose of prostitution or gambling.
- J. Liquor Establishments in Violation of Law: All places where intoxicating liquors are manufactured, sold, bartered, or given away in violation of law or where persons are permitted to resort for the purpose of drinking intoxicating liquors kept for sale, barter, or distributed in violation of law, and all liquors, bottles, kegs, pumps, bars, and other property kept at and used for maintaining such a place.
- K. Radio Reception: Any electrical appliance, wiring, switch, fixture, motor, sign, or equipment (except an X-Ray machine)

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that interferes with the clear reception of radio waves by radio receiving sets operated in the City of New Rockford.

- L. Junk Automobiles: Any junk automobile, abandoned vehicle, or part of either not properly enclosed and screened from ordinary public view.

Article 3.

ABATEMENT

10-03-01 General.

- A. Notice: Whenever any nuisance shall be found by the Board of Health, City Physician, Building Official, Chief of Police or the Chief of the Fire Department, a notice in writing shall be served on the owner, occupant, principal, or source thereof requiring him, at his own expense, to remove, repair, or desist such nuisance within a reasonable time.
- B. Failure to Abate: If the owner, occupant, or principal of such nuisance shall refuse or neglect to comply with a notice to abate the same and has not requested a hearing, or if the source of such nuisance cannot be found, the officer shall cause the removal, repair, or abatement of such nuisance.
- C. Hearing: If the owner, occupant, or principal of such nuisance shall contest the declaration of such nuisance, he shall do so by a written request to the City Auditor for a hearing at its next regular meeting of the Board of City Commissioners; such request made within five (5) days of notice of nuisance.
- D. Cost: Any cost incurred shall be assessed against the owner, occupant, principal, or source.

10-03-02 Substandard Building.

- A. General: When ever the Building Official or the Chief of the Fire Department, City Physician, or the Board of Health of the City of New Rockford, North Dakota, shall be of the opinion that either a substandard building, substandard structure, blighted structure, or a dangerous building exists in the City of New Rockford, a written statement shall be filed in the Office of the City Auditor describing in detail his reasons for such opinion and further describing the property by legal description and its street location in the City of New Rockford; and certifying the names and addresses of all persons shown by the records in the Office of the

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Register Deeds to have an interest in said property either as owner or owners, occupants, and lien holders. Thereupon the City Auditor shall cause a written Notice of Declaration of Nuisance to be served by certified mail upon all of said persons whose names and addresses are so certified to the City Auditor. If certified mail service cannot be made upon either or any of said persons then such notice shall be served in the manner provided by the laws of the State of North Dakota for the Service of Summons in civil actions and service shall be complete in the statutory time after publication. Such notice shall state that the building or structure has been declared to be a substandard building, blighted structure, substandard structure, or dangerous building, and to be a nuisance, the causes for such determination, and notifying that such substandard condition must be removed or remedied by repairing, altering, removing or demolishing such building or structure; and notifying that a hearing will be held by the Board of City Commissioners of the City of New Rockford, North Dakota, at the City Hall at such date and time as shall be specified, which date shall not be less than thirty (30) days after the service of such notice, and further giving notice at such time and place a final determination will be made by the Board of City Commissioners as to what remedial action shall be taken, if any, with reference to such declared nuisance, at which meeting any interested person may appear and be heard. Such notice shall also provide that a Final Order For Disposition of the matter shall be made after such hearing and that any person aggrieved thereby may appeal therefrom to the District Court of Eddy County, North Dakota, within thirty (30) days from time of the entry of such Final Order. Such notice shall further state that in the event said building or structure is to be demolished or repaired by the City of New Rockford that the cost thereof will be levied as a special assessment against the land upon which said building or structure stands or did stand; and in addition thereto the costs may be recovered in a suit at law against the owner or other proper party. If the Board of City Commissioners enters a Final Order that said substandard building or structure shall be demolished or repaired by the City of New Rockford, and such order is not appealed within the prescribed period of thirty (30) days, or if such Final Order is sustained by the said District Court, after appeal, the said City of New Rockford shall then proceed to demolish or repair such building or structure and assess the costs thereof as a special assessment against the land upon which the building or structure stands or did stand; and in addition thereto the costs may be recovered in a suit at law against the owner or other proper party.

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- B. Emergency Cases: In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless the building or structure is immediately repaired, vacated, or demolished, the Building Official shall report such fact to the Board of City Commissioners of the City of New Rockford, which shall cause the immediate repair, vacation, or demolition of such substandard building or structure. The costs of such emergency repair, vacation, or demolition of such substandard building or structure shall be collected in the same manner as provided in subsection A hereof.

10-03-03 Junk Automobiles or Abandoned Vehicles.

- A. General: Police department may remove junk automobiles or abandoned vehicles. The police department may remove or cause to be removed any junk automobile or abandoned vehicle, or parts of either, from any unenclosed private property after having notified, in writing, the owner or occupant of such property of its intention to do so at least forty-eight (48) hours prior to such removal. Such notice shall be served personally upon the owner or occupant of the property, if occupied, or may be posted in a conspicuous place upon vacant or unoccupied property. Such junk automobiles or abandoned vehicles, or parts of either, shall be removed to the automobile pound or sanitary landfill and disposed of in accordance with law. Such removal by the police department shall not excuse or relieve any person of the obligation imposed by this Ordinance to keep his property free from storage or accumulation of junk automobiles or abandoned vehicles, or parts of junk automobiles or abandoned vehicles, or parts of either, nor from the penalties for violation thereof.
- B. Costs: The costs of any removal of junked automobiles, abandoned vehicles or any other materials for which removal is provided under the provisions of the Ordinances of the City of New Rockford, and the cost of any sanitation improvement required by this Ordinance, shall where applicable, be charged back against the property from which such junk, such junk material, junked or abandoned automobiles or vehicles or debris was removed, to the extent that the entire cost of such abatement of said nuisance shall become a special assessment against such property. Such special assessment shall be levied and assessed against the property involved by the Board of City Commissioners.

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10-03-04 Violations and Penalty.

It shall be unlawful to fail to comply with any notice to remove, repair, or desist such nuisance in accordance with any notice as provided for herein, and every day subsequent to such notice in which the violator fails to comply with said notice shall be deemed a separate offense. Any person, firm or corporation violating any of the terms of this Chapter shall, upon conviction, be punished by a fine not to exceed \$500.00 or by imprisonment not to exceed thirty (30) days, or both.

10-03-05 Administrative Liability.

No officer, agent, or employee of the City of New Rockford shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent, or employee of the City of New Rockford as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the City Attorney until the final determination of the proceedings therein.

Article 4.

CITY TREE BOARD

10-04-01 Creation and Establishment of a City Tree Board.

There is hereby created and established a City Tree Board for the City of New Rockford, North Dakota, which shall consist of five members, residents of this city, who shall be appointed by the President of the City Commission with the approval of the City Commission.

10-04-02 Term of Office.

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

10-04-03 Compensation.

Members of the Tree Board shall serve without compensation.

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10-04-04 Duties and responsibilities.

It shall be the responsibility of the Board to study, investigate, counsel and develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in public ways, streets and alleys. Such plan will be presented annually to the City Commission and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of New Rockford, North Dakota

The Board shall appoint a City Forester, who shall have the authority and jurisdiction, through the Board, to regulate the planting, maintenance, and protection of trees on streets and public places, and the removal of trees from streets, public and private places, and to ensure safety or preserve the esthetics of streets and public places.

10-04-05 Operation.

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

10-04-06 Dead or Diseased Tree Removal.

The City shall have the right to cause the removal of any dead or diseased tree on private property or on a street or public right of way within the city, when such tree constitutes a hazard to life and property, or harbors insects or disease which constitute a potential threat to other trees within the city. The City Tree Board will notify in writing the owner of such tree if privately owned, or the adjoining property owner if said tree is on a street or public right of way. Removal shall be done by such owner or adjoining property owner at their own expense within twenty (20) days after the date of service of notice. In the event of failure of said person to comply with such provisions, the city shall have the authority to remove such tree and charge the cost of removal against the owner or adjoining property owner on his tax notice.

10-04-07 Firewood inspection.

From time to time as the Tree Board shall deem necessary, the City Forester shall inspect all log or woodpiles in the city. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed shall be burned or destroyed prior to April 1st of each year. No such elm wood shall be allowed in the City of New Rockford from April 1st to October 15th of each year. The City Forester may enter upon private property at any reasonable time upon notice to the owner

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for the purpose of carrying out the duties assigned by this article.

10-04-08 Penalty.

Any person violating any provision of this article shall, upon conviction therefor, be subject to a fine not to exceed Five Hundred (500.00) Dollars, and thirty (30) days imprisonment, or both such fine and imprisonment.

CHAPTER 11

ANIMAL CONTROL

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- 11-01-02 Running at Large Prohibited - Waste
- 11-01-03 Dangerous Animal at Large Prohibited
- 11-01-04 Noisy Animal
- 11-01-05 Destruction of Property
- 11-01-06 Public Nuisance
- 11-01-07 Cruelty to Animals
- 11-01-08 Vaccination
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- 11-03-01 Authorized
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- 11-03-07 City not Liable for Impounding Animals

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- 11-04-01 Penalty for Violation of Chapter

ARTICLE 1 - Animal Control

11-01-01 Definitions

As used in this chapter, the following words shall have the meaning respectively ascribed to them:

"Animal" means every living animal, both male and female of the species, except the human race.

"At large" means the animal is off the premises of the owner and is not securely confined in a vehicle or other enclosure or restrained.

"Cruelty" or "torture" means every act, omission or neglect whereby unnecessary or unjustifiable pain, suffering or death shall be caused or permitted.

"Dangerous animal" means any animal which has a tendency to attack, bite, cause injury or to otherwise endanger the safety of or menace human beings or domestic animals.

"Owner" means any person, firm, association, corporation or combination thereof keeping or harboring a dog, cat or other animal.

11-01-02 Running at Large Prohibited - Wastes

It shall be unlawful for any owner or keeper of a dog, cat or other animal to permit such dog, cat or other animal to be at large at any time upon the streets, public places, public ways, and school grounds or upon the private premises of any person other than the owner or keeper of such dog, cat or other animal. No intent or knowledge by the owner or keeper of a dog, cat or other animal is necessary to prove a violation of this section.

The animal owner shall be responsible for the sanitations of his/her animal whether on his/her own property, private property of others or public property. No person shall permit any animal under their care to defecate upon any park or other public grounds, unless said person shall promptly clean up such waste and deposit same in adequate sanitary facilities. All animal waste shall be removed daily so as to keep the surrounding area free from obnoxious odors.

11-1-03 Dangerous Animal at Large Prohibited

No dangerous animal may be at large at any time within the limits of the City, and it shall be unlawful for the owner or other person having any dangerous animal in his/her possession or under his/her control, or in any manner keeping or harboring any such animal within

the limits of the City, to cause or permit any such animal to be at large in the City.

If any animal bites or attempts to bite any person while such animal is at large, then such animal shall be conclusively presumed to be a dangerous animal.

If any animal attacks or attempts to attack any other dog, cat or other domestic animal or chases or otherwise attempts to catch a person while such animal is at large then such animal shall be conclusively presumed to be a dangerous animal.

11-01-04 Noisy Animal

It shall be unlawful for any person to allow any animal owned by him/her or under his/her control by loud and frequent yelping, barking, or howling to annoy any person.

11-01-05 Destruction of Property

It shall be unlawful for any person to allow any animal owned by the person or under the person's control to destroy any property not the property of the owner or keeper.

11-01-06 Public Nuisance

1. Every animal that has committed any of the following acts is deemed to be a public nuisance:
 - a. Habitually at large.
 - b. Habitually annoys, barks at or chases any person or vehicle.
 - c. Habitually disturbs the peace by barking, howling, yelping, or fighting.
 - d. Bites any person off the premises of the owner.
 - e. Habitually attacks and injures, without provocation, any domestic animal or bird.
2. Upon written complaint made by a law enforcement officer to a District Judge and notice to its owner; or if the owner is unknown after ten days' notice by publication and a hearing, as provided for by N.D.C.C. 42-03-02 and 42-03-03, a District Judge upon a finding that an animal is a public nuisance shall:

- a. 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 (6) feet in length and/or properly muzzled; or
 - b. Order the surrender of such animal to the humane society or other animal placement organization or law enforcement officer for purposes of placement outside the City or humane destruction; or
 - c. Issue such other order as may be necessary to abate the nuisance.
3. District Judge may assess costs and expenses to the owner or keeper of the animal.

11-01-07 Cruelty to Animals

It shall be unlawful for any person to:

1. Overwork, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate or kill any animal, or cruelly work any animal when unfit for labor.
2. Fail to provide any animal in his/her charge or control with necessary food, water or shelter.
3. Keep any animal in any enclosure without exercise or wholesome change of air.
4. Abandon any animal or cause such act to be done.
5. Unjustifiably administer or expose an animal to any known poisonous substance or noxious drug, whether mixed with food or not.
6. Carry or transport any live animal in any vehicle, cage, railroad car, or by any other means that does not permit adequate ventilation and space for the reasonable comfort of the animal, nor carry or transport an animal in any other cruel manner.
7. Willfully frighten, shoot at, wound, kill, capture, ensnare, net trap or in any other manner molest or injure any song bird or insectivorous bird; or in any manner to molest or injure the

nest eggs or young of any such bird; or to have in possession the nest eggs, young or body of such bird, except as authorized by a law enforcement officer.

This section does not apply to the eradication, by lawful and safe methods, of rodents, including rats, mice, gophers and moles.

11-01-08 Vaccination

It shall be unlawful for any person. to own or have under his/her control any dog or cat which has not been inoculated against rabies, if over six (6) months of age.

11-01-09 Duty of Owner to Surrender Animal; Redemption

The owner, upon demand by a law enforcement officer, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for supervised quarantine, the expense of which shall be borne by the owner. Said animal may be reclaimed by the owner if it is adjudged free of rabies, upon payment of fees determined therefor by the Board of City Commissioners.

Any dog or cat that has exposed a human or domestic pet to the rabies virus will be examined by a licensed veterinarian and quarantined according to the most current rabies exposure protocols of the North Dakota Department of Health and North Dakota Department of Animal Health.

11-01-10 Number of Dogs or Cats

No person shall harbor or keep more than two dogs or more than two cats, or a combination thereof, upon premises within the City which are owned or controlled by him/her, unless approval is obtained from the Board of City Commissioners. The Board of Commissioners may grant a person permission to harbor or keep more than two dogs, two cats, or combination of dogs or cats. The approval shall specify the number of dogs or cats, or combination of dogs or cats, which the permittee may harbor or keep, subject to such limitations and conditions as the Board may impose. The approval shall attach to the premises to which it relates and shall be personal to the permittee and may not be transferred. If after a hearing, the person is found to have violated any other section of Chapter 11, the Board of City Commissioners may revoke the permission.

ARTICLE 2 - LICENSE

11-02-01 Required

It shall be unlawful for any person within the City to keep, maintain or have in his/her custody or under his/her control, any dog or cat over the age of six (6) months without first having obtained from the City an annual license to do so.

11-02-02 Application

Any person desiring to keep, maintain or have in his/her custody or control any dog or cat over the age of six (6) months shall make application to the City Auditor for a license to keep such dog or cat. Such application shall be in writing stating the name, sex, color and other distinguishing characteristics of such dog or cat and the name and address of the applicant. A current color photograph of the dog or cat to be licensed shall accompany the license application.

11-02-03 Vaccination Required

Before any license shall be issued under this chapter, the applicant shall furnish a certificate of vaccination issued by a veterinarian licensed to practice within this State evidencing that the dog or cat for which the license is desired has been vaccinated against rabies and that such vaccination will be good for the license year.

11-02-04 License Fee

Before any license shall be issued under the provisions of this chapter, the applicant shall pay to the City the sum of Five Dollars (\$5.00) for each intact dog or cat or Three Dollars (\$3.00) for a spayed or neutered dog or cat.

11-02-05 Refund Prohibited

No refund shall be made on a dog or cat license fee or license renewal fee because of the death of a dog or cat or because the owner of the dog or cat moves from the City before expiration of the license period.

11-02-06 Issuance of Tag

It shall be the duty of the City Auditor, at the time of the issuance of a license under this chapter, to furnish and deliver to the applicant for such license a tag for each dog or cat for which such license is issued, upon which tag shall be stamped or engraved the number of the license and the year for which such license is issued.

11-02-07 Dog or Cat to Wear Tag

It shall be the duty of the owner of each dog or cat licensed under this chapter to place a collar around the neck of each such dog or cat, on which collar shall be securely fastened the tag furnished by the City Auditor.

11-02-08 Replacement Tag

In the event of the loss of any tag issued under the provisions of this chapter, the City Auditor is hereby authorized to issue a replacement tag.

11-02-09 Transfer

No dog or cat tag shall be transferable from one dog or cat to another.

ARTICLE 3 - IMPOUNDMENT

11-03-01 Authorized

Any animal found in violation of the provisions of this chapter may be seized and impounded by any law enforcement official. Impoundment may be in any animal shelter designated by the Board of City Commissioners.

11-03-02 Notice to Owner

The owner of any animal impounded under the provisions of this chapter, if the owner's identity and location can be obtained by reasonable means, shall, within twenty-four (24) hours, be notified that his/her animal has been impounded.

11-03-03 Fees

The following fees shall be charged for the impoundment and redemption of each animal under the provisions of this chapter.

1. First redemption of each animal \$25.00
2. Second redemption of same animal within twelve (12) months \$50.00
3. Third redemption of same animal within twelve (12) months \$75.00

Whenever any animal is impounded, an additional fee of Ten Dollars (\$10.00) shall be charged for each day, or fraction thereof, of impoundment for feeding and caring for each such animal.

11-03-04 Redemption of Unvaccinated or Unlicensed Dog or Cat

The owner of each impounded dog or cat which has not been vaccinated or licensed under this chapter, upon satisfactory proof of ownership, may redeem such dog or cat by making a deposit of Fifteen Dollars (\$15.00) with the City Auditor and be allowed forty-eight (48) hours to get such dog or cat vaccinated and properly licensed. If the owner fails to procure a certificate of vaccination and City license within forty-eight (48) hours, the deposit shall be forfeited and turned over to the City Auditor to be placed in the general fund and such dog or cat shall again be seized and impounded. Upon presentation within forty-eight (48) hours of a certificate of vaccination and issuance of a license under this chapter the deposit shall be refunded.

11-03-05 Redemption by Person Other Than Owner

If the owner of any animal impounded under this chapter shall fail to redeem such animal within three (3) days after such impoundment, any other person may upon complying with the provisions of this chapter, redeem such animal from the impoundment and thereafter be the lawful owner of such animal.

11-03-06 Disposition of Unredeemed Animals

Each animal impounded under this chapter that has not been redeemed or purchased as authorized by this chapter within three (3) days of such impoundment, will be given to the Humane Society. If the Humane Society cannot take the animal, it may be disposed of in a humane manner by a law enforcement officer or his/her authorized representative.

11-03-07 City not Liable for Impounding Animals

The City and/or law enforcement shall not be liable for the death or injury to any animal which has been impounded or disposed of pursuant to this chapter.

ARTICLE 4 - PENALTY

11-04-01 Penalty for Violation of Chapter

Any person, firm, or corporation violating any of the terms or provisions of this chapter, except as otherwise provided, shall be guilty of an infraction and be punished by a fine not to exceed One Thousand Dollars (\$1000.00).

FIRST READING: May 17, 2017
SECOND READING: June 5, 2017
EFFECTIVE DATE: June 26, 2017

CHAPTER 12

OFFENSES AND INFRACTIONS

Article 1.

IN GENERAL

Division 1. Offenses of general applicability

12-01-01 Criminal Attempt.

1. A person is guilty of criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, he intentionally engages in conduct which, in fact, constitutes a substantial step toward commission of the offense. A "substantial step" is any conduct which is strongly corroborative of the firmness of the actor's intent to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense, if it could have been committed had the attendant circumstances been as the actor believed them to be.

2. A person who engaged in conduct intending to aid another to commit an offense is guilty of criminal attempt if the conduct would establish his complicity as an accomplice under NDCC §12.1-03-01 were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense, for example, because he has a defense of justification or entrapment.

3. Criminal attempt is an offense if the crime attempted is an offense, except that whenever it is established by a preponderance of the evidence at sentencing that the conduct constituting the attempt did not come dangerously close to commission of the offense, an attempt to commit an offense shall be punished as an infraction.

(Source: NDCC §12.1-06-01.)

12-01-02 Criminal Conspiracy.

1. A person commits conspiracy if he agrees with one or more persons to engage in or cause conduct which, in fact, constitutes an offense or offenses proscribed by the ordinances of this city, and anyone or more of such persons does an overt act to effect an objective of the conspiracy. The agreement or the overt act must occur within the city. The agreement need not be explicit, but may be implicit in the fact of collaboration or existence of other circumstances.

OFFENSES AND INFRACTIONS

2. If a person knows or could expect that one with whom he agrees has agreed or will agree with another to effect the same objective, he shall be deemed to have agreed with the other, whether or not he knows the other's identity!

3. A conspiracy shall be deemed to continue until its objectives are accomplished, frustrated, or abandoned. "Objectives" includes escape from the scene of the crime, distribution of booty, and measures, other than silence, for concealing the crime or obstructing justice in relation to it. A conspiracy shall be deemed abandoned if no overt act to effect its objectives has been committed by any conspirator during the applicable period of limitations.

4. It is no defense to a prosecution under this section that the person with whom such person is alleged to have conspired has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense, is immune from prosecution, or is otherwise not subject to justice.

5. Accomplice liability for offenses committed in furtherance of the conspiracy is to be determined as provided in NDCC §12.1-03-01.

6. Conspiracy shall be subject to the penalties provided for attempt in subsection 3 of §1-1.

Division 2. Integrity and effectiveness of government operation

12-01-03 Aiding Consummation of a Crime.

A person is guilty of the offense of aiding consummation of an offense against the ordinances of this city if he intentionally aids another to secrete, disguise, or convert the proceeds of the offense against the ordinances or otherwise profits from the offense.

12-01-04 Public Servants Permitting Escape.

A public servant concerned in official detention, as defined by NDCC §12.1-08-06(3), pursuant to process issued by a court, judge, or magistrate is guilty of an offense against the ordinances of this city if he negligently permits an escape.

12-01-05 Criminal Contempt.

1. The municipal court has power to punish for contempt of its authority only for the following offenses:

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a. Misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

b. Misbehavior of any of its officers in their official transactions; or

c. Disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

2. Except as otherwise provided, a criminal contempt proceeding under this section shall be deemed a prosecution for an offense for the purposes of NDCC chapters 12.1-01 through 12.1-05, NDCC ch. 12.1-32, and art. V of this chapter.

3. A criminal contempt proceeding under this section is not a bar to subsequent prosecution for a specific offense if the Municipal Judge certifies in the judgment of conviction of criminal contempt, or the order terminating the proceeding without acquittal or dismissal, that a summary criminal contempt proceeding was necessary to prevent repetition of misbehavior disruptive of an ongoing proceeding and that subsequent prosecution as a specific offense is warranted. In a subsequent prosecution, the defendant shall receive credit for all time spent in custody and any fine paid by him pursuant to the criminal contempt proceeding.

4. This section shall not be construed to deprive a Municipal Judge of its power, by civil contempt proceedings, to compel compliance with its lawful writ, process, order, rule, decree, or command or to compensate a complainant for losses sustained by reason of disobedience or resistance thereto, in accordance with the prevailing usages of law and equity, including the power of detention.

Comment

The ambiguous language in the second sentence of subsection 2 of NDCC 12.1-10-01 is avoided in the model ordinance. It is assumed that the penalty will fall within the range authorized by the general penalty section of §5-1 except insofar as allowed by subsection 4 of the model ordinance "in accordance with the prevailing usages of law and equity, including the power of detention" which usages, while none too clear, are beyond the scope of this project.

OFFENSES AND INFRACTIONS

12-01-06 Binding Proceedings by Disorderly Conduct.

A person is guilty of an offense if he recklessly hinders an official city proceeding by noise or violent or tumultuous behavior or disturbance.

Comment

Intentional hinderings by disorderly conduct must be prosecuted in state court since the punishment authorized is higher than that' authorized for municipal courts. However, the conduct might also fall within the scope of criminal contempt under §1-5.

The proceedings intended to be covered under this offense are official proceedings as defined in NDCC §12.1-01-04(23) involving agencies or branches of the municipal government.

12-01-07 Impersonating Officials.

1. A person is guilty of an offense if- he falsely pretends to be a public servant of this city and acts as if to exercise the authority of such public servant.

2. It is no defense to prosecution under this section that the pretended capacity did not exist or the pretended authority could not legally or otherwise have been exercised or conferred. If the offender "obtains a thing of value" as a result of his pretension, he is guilty of the greater offense prohibited by NDCC §12.1-13-04(1) (b) which is classified as a class A misdemeanor and thus must be prosecuted in state court. It is also the intention of the ordinance to cover only impersonation of city officials rather than state officials.

12-01-08 Obstructing Peace Officers and Public Officers in Discharge of-Their Duties.

Every person who intentionally or willfully delays, resists, opposes or obstructs a peace officer or public officer in the discharge or attempt to discharge any duty of his office shall be guilty of an offense.

12-01-09 False Alarms; Interference with Apparatus, Equipment.

No person, other than a police officer or city officer in the discharge of his duty, shall give, make, or sound any alarm or call with any policemen's whistle, siren, or other instrument commonly known or used by any of the police officers of the city in making alarms or calls while in the discharge of his duty; and no person

OFFENSES AND INFRACTIONS

shall in any manner whatever, intentionally interfere with or injure any property of any kind belonging to or used by the Fire Department or Police Department; or hinder or delay any apparatus, equipment, or vehicle belonging to the Fire Department or Police Department.

Division 3. Civil Rights

12-01-10 Discrimination in Public Places.

A person is guilty of an offense if, whether or not acting under color of law, he, by force, or threat of force or by economic coercion, intentionally:

1. Injures, intimidates or interferes with another because of his sex, race, color, religion, or national origin and because he is or has been exercising or attempting to exercise his right to full and equal enjoyment of any facility open to the public.

2. Injures, intimidates, or interferes with another because of his sex, race, color, religion, or national origin in order to intimidate him or any other person from exercising or attempting to exercise his right to full and equal enjoyment of any facility open to the public.

12-01-11 Preventing Exercise of Civil Rights - Hindering or Preventing Another Aiding Third Person to Exercise Civil Rights.

A person is guilty of an offense if, whether or not acting under color of law, he, by force or threat of force or by economic coercion, intentionally:

1. Injures, intimidates, or interferes with another because he is or is about to exercise his civil rights, or because he has exercised his civil rights.

2. Intimidates or prevents another from 'aiding a third person to exercise his civil rights.

Article 2.

OFFENSES AGAINST PERSONS

12-02-01 Simple Assault.

1. A person is guilty of an offense if he:

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- a. Willfully causes bodily injury to another human being; or
 - b. Negligently causes bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.
2. Consent to the conduct causing bodily injury by all persons injured by the conduct is a defense if:
- a. Neither the injury inflicted nor the injury threatened is such as to jeopardize life or seriously impair health;
 - b. The conduct and the injury are reasonable foreseeable hazards of joint participation in a lawful athletic contest or competitive sport; or
 - c. The conduct and the injury are reasonably foreseeable hazards of an occupation or profession or of medical or scientific experimentation conducted by recognized methods and the persons subjected to such conduct or injury, having been made aware of the risks involved, consent to the performance of the conduct or the infliction of the injury.
3. Assent does not constitute consent, within the meaning of this ordinance, if:
- a. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense and such incompetence is manifest or known to the actor;
 - b. It is given by a person who by reason of youth, mental disease or defect, or intoxication, is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or
 - c. It is induced by force, duress, or deception.

Comment

This section parallels the simple assault offense in NDCC §12.1-17-01 and the consent provisions in NDCC §12.1-17-08. It essentially follows lay usage in covering what was under common law more technically a battery. Common law assault is not covered more descriptively as terrorizing, NDCC §12.1-17-04; menacing, NDCC §12.1-17-05; criminal coercion, NDCC §12.1-17-06; or, harassment, NDCC ~12.1-17-07. . More serious assault (battery) is covered by state law under aggravated assault, NDCC §12.1-17-02 or, if simple assault

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upon a peace officer acting in an official capacity, as a Class C felony under NDCC ~12.1-17-01.

12-02-02 Sexual Assault.

1. A person who knowingly has sexual contact with another, or who causes such other person to have sexual contact with him, is guilty of an offense if:

a. He knows or has reasonable cause to believe that the contact is offensive to the other person;

b. He knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders him or her incapable of understanding the nature of his or her conduct;

c. He or someone with his knowledge has substantially impaired the other person's power to appraise or control his conduct, by administering or employing without the other's knowledge intoxicants or other means for the purpose of preventing resistance;

d. The other person is in official custody or detained in a hospital, prison, or other institution and the actor has supervisory or disciplinary authority over him or her.

12-02-03 Harassment.

A person is guilty of an offense if, with intent to frighten or harass another, he:

1. Makes a telephone call anonymously or in offensively coarse language;

2. Makes repeated telephone calls, whether or not a conversation ensues, with no purpose of legitimate communication; or

3. Communicates a falsehood by telephone and causes mental anguish.

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Article 3.

OFFENSES AGAINST PROPERTY

Division I. Property Destruction and Criminal Intrusion

12-03-01 Criminal Mischief.

A person is guilty of an offense if he:

1. Willfully tampers with tangible property of another so as to endanger person or property; or
2. Willfully damages tangible property of another.

Conduct is punishable as criminal mischief under this ordinance when any pecuniary loss if intentionally caused is not in excess of one hundred dollars; if recklessly caused is not in excess of two thousand dollars; and if the damages to tangible property of another are not by means of an explosive or a destructive device.

3. The penalty for the offense of criminal mischief may not exceed a fine of one thousand dollars, imprisonment for thirty days, or both such fine and imprisonment.

12-03-01.1 Malicious Mischief. Littering.

No person, within the city, shall willfully, maliciously, wantonly, negligently or otherwise injure, deface, destroy or remove any real or personal property or improvements thereto, belonging to any other person or public entity, nor shall any person, within the city, throw or permit to be deposited or scattered upon any property, public or private, any garbage or waste or other material of any kind, except in depositories intended for the deposit of the same, or as otherwise provided by the ordinances of the City of New Rockford.

12-03-02 Tampering With or Damaging a Public Service.

A person is guilty of an offense if he negligently causes a substantial interruption or impairment of a public communication, transportation, supply of water, gas, power, or other public service by:

1. Tampering with or damaging the tangible property of another;
2. Incapacitating an operator of such service; or
3. Negligently damaging the tangible property of another by fire, explosive, or other dangerous means.

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12-03-03 Consent as a Defense and Definition of "of another" for Criminal Mischief or Tampering With or Damaging a Public Service.

For prosecutions of criminal mischief under 12-03-01 or tampering with or damaging a public service under 12-03-02:

1. Whenever it is an element of the offense that the property is of another, it is a defense to a prosecution under those sections that the other has consented to the actor's conduct with respect to the property.
2. Property is that "of another" if anyone other than the actor has a possessory or proprietary interest therein.

12-03-04 Criminal Trespass.

A person is guilty of an offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the person in charge of the premises or other authorized person or by posting in a manner reasonably likely to come to the attention of intruders.

Division 2. Theft and Related Offenses.

12-03-05 Consolidated Theft Offenses.

1. Conduct denominated theft in §12-03-06 to 12-03-08 constitutes a single offense designed to include the separate offenses heretofore known as larceny, stealing, purloining, embezzlement, obtaining money or property by false pretenses, extortion, blackmail, fraudulent conversion, receiving stolen property, misappropriation of public funds, swindling, and the like.
2. A charge of theft under §12-03-06 to 12-03-08 which fairly apprises the defendant of the nature of the charges against him shall not be deemed insufficient because it fails to specify a particular category of theft. The defendant may be found guilty of theft under such a charge if his conduct falls under §12-03-06 to 12-03-08, so long as the conduct proved is sufficiently related to the conduct charged that the accused is not unfairly surprised by the case he must meet.

12-03-06 Theft of Property.

A person is guilty of theft if he:

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1. Knowingly takes or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another with intent to deprive the owner thereof;
2. Knowingly obtains the property of another by deception or by threat with intent to deprive the owner thereof, or intentionally deprives another of his property by deception or by threat; or,
3. Knowingly receives, retains, or disposes of property of another which has been stolen, with intent to deprive the owner thereof.

12-03-07 Theft of Services.

A person is guilty of theft if:

1. He intentionally obtains services, known by him to be available only for compensation, by deception, threat, false token, or other means to avoid payment for the services; or
2. Having control over the disposition of services of another to which he is not entitled, he knowingly diverts those services to his own benefit or to the benefit of another not entitled thereto.

Where compensation for services is ordinarily paid immediately upon their rendition, as in the case of hotels, restaurants, and comparable establishments, absconding without payment or making provision to pay is prima facie evidence that the services were obtained by deception.

12-03-08 Theft of Property Lost, Mislaid, or Delivered by Mistake.

A person is guilty of theft if he:

1. Retains or disposes of property of another when he knows it has been lost or mislaid; or
2. Retains or disposes of property of another when he knows it has been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property;

and with intent to deprive the owner of it, he fails to take readily available and reasonable measures to restore the property to a person entitled to have it.

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12-03-09 Thefts Punishable Under City Ordinance.

Theft under §12-03-06 to §12-03-08 may be punished as an offense against the city ordinances if the highest value by any reasonable standard, regardless of the actor's knowledge of such value, of the property or services which were stolen by the actor, or which the actor believed that he was stealing, or which the actor could reasonably have anticipated to have been the property or services involved, does not exceed fifty dollars; and if:

1. The theft was not committed by threat;
2. The theft was not committed by deception by one who stood in a confidential or fiduciary relationship to the victim of the theft; and
3. The defendant was not a public servant or an officer or employee of a financial institution who committed the theft in the course of his official duties;
4. The property stolen is not a firearm, ammunition, explosive or destructive device, or an automobile, aircraft, or other motor-propelled vehicle;
5. The property does not consist of any government file, record, document, or other government paper stolen from any government office or from any public servant;
6. The defendant is not in the business of buying or selling stolen property and he does not receive, retain, or dispose of the property in the course of that business.
7. The property stolen does not consist of any implement, paper, or other thing uniquely associated with the preparation of any money, stamp, bond, or other document, instrument, or obligation of the State of North Dakota;
8. The property stolen does not consist of livestock taken from the premises of the owner; and
9. The property stolen does not consist 'of a key or other implement uniquely suited to provide access to property the theft of which would be a felony or was not stolen to gain such access.

12-03-10 Defrauding Secured Creditors.

A person is guilty of an offense if he destroys, removes, conceals, encumbers, transfers, or otherwise deals with property subject

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to a security interest with intent to prevent collection of the debt represented by the security interest if the property does not have a value exceeding five hundred dollars determined as in the preamble of §12.;.03-09.

12-03-11 Retail Theft - Shoplifting.

1. Presumption.

Any person concealing upon his person or among his belongings, or causing to be concealed upon the person or among the belongings of another, unpurchased merchandise displayed, held, offered, or stored for sale in a retail mercantile establishment and removing it to a point beyond the last station for receiving payments in that retail mercantile establishment shall be prima facie presumed to have so concealed such merchandise with the intention of permanently depriving the merchant of possession or of the full retail value of such merchandise.

2. Detention of suspect - Procedure.

Any peace officer or merchant who reasonably believes that a person has committed, or is in the process of committing, theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

3. Definitions.

As used in this section, unless the context requires otherwise:

a. "Merchandise" means any item or tangible personal property, and specifically includes shopping carts.

b. "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, franchisee, or independent contractor or such owner or operator.

c. "Retail mercantile establishment" means any place where merchandise is displayed; held, offered, or stored for sale to the public.

d. "Premises of a retail mercantile establishment" includes, but is not limited to, the retail mercantile establishment, any common use areas in shopping centers, and all parking areas set aside by a merchant, or on behalf of a merchant for the parking of vehicles for the convenience

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of the patrons of said retail mercantile establishment.

e. "Person" means any natural person or individual.

f. "Full retail value" means the merchant's stated or advertised price of the merchandise.

g. "Shopping cart" means those push carts of the type or types which are commonly provided by grocery stores, drugstores, or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and, incidentally, from the stores to a place outside the store.

h. An item is "concealed" within the meaning of this section if, even though there is some notice of its presence, the item itself is not visible through ordinary observation.

4. Theft of unpurchased merchandise displayed, held, offered, or stored for sale in a mercantile establishment from that establishment when open for business is "shoplifting" for which the offender may be assessed a penalty upon conviction not exceeding one thousand dollars, imprisonment for thirty days, or both such fine and imprisonment.

12-03-12 Defenses and Proof as to Theft and Related Offenses.

1. It is a defense to a prosecution under §12-03-05 to §12-03-13 that:

a. The actor honestly believed that he had a claim to the property or services involved which he was entitled to assert in the manner which forms the basis for the charge against him; or

b. The victim is the actor's spouse, but only when the property involved constitutes household or personal effects or other property normally accessible to both spouses and the parties involved are living together. The term "spouse", as used in this section, includes persons living together as husband and wife.

2. It does not constitute a defense to a prosecution for conduct constituting an offense in violation of §12-03-05 to §12-03-13 that:

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- a. Stratagem or deception, including the use of an undercover operative or law enforcement officer, was employed;
- b. A facility or an opportunity to engage in such conduct including offering for sale property not stolen as if it were stolen, was provided; or
- c. Mere colicitation that would not induce an ordinary law-abiding person to engage in such conduct was made by a law enforcement officer to gain evidence against a person pre disposed to engage in such conduct.

3. a. It shall be prima facie case of theft under §12-03-05 to §12-03-13 if it is shown that a public servant or an officer, director, agent, employee of, or a person connected in any capacity with a financial institution has failed to payor account upon lawful demand for money or property entrusted to him as part of his official duties or if an audit reveals a shortage or falsification of his accounts.

b. Proof of the purchase or sale of stolen property at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen.

c. Proof of the purchase or sale of stolen property by a dealer in property, out of the regular course of business, or without the usual indicia of ownership other than mere possession, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen.

12-03-13 Definitions.

For §12-03-05 to §12-03-12.

1. "Deception" means:

a. Creating or reinforcing a false impression, including false impressions as to fact, law, status, value, intention or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not substantially perform the promise unless it is part of a continuing scheme to defraud; or

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- b. Preventing another from acquiring information which would affect his judgment of a transaction; or
- c. Failing to correct a false impression which the actor previously created or reinforced, or which he knows to be influencing another to whom he stands in fiduciary or confidential relationship; or
- d. Failing to correct an impression which the actor previously created or reinforced and which the actor knows to have become false due to subsequent events; or
- e. Failing to disclose a lien, adverse claim, or other impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained or in order to continue to deprive another of his property, whether such impediment is or is not valid, or is or is not a matter of official record; or
- f. Using a credit card, charge plate, or any other instrument which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer (1) where such instrument has been stolen, forged, revoked, or cancelled, or where for any other reason its use by the actor is unauthorized, and (2) where the actor does not have the intention and ability to meet all obligations to the issuer arising out of his use of the instrument; or
- g. Any other scheme to defraud. The term "deception" does not, however, include falsifications as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. "Puffing" means an exaggerated commendation of wares in communications addressed to the public or to a class or group.

2. "Deprive" means:

- a. To withhold property or to cause it to be withheld either permanently or under such circumstances that a major portion of its economic value, or its use and benefit, has, in fact, been appropriated; or

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- b. To withhold property or to cause it to be withheld with the intent to restore it only upon the payment of a reward or other compensation; or
- c. To dispose of property or use it or transfer any interest in it under circumstances that make its restoration, in fact, unlikely.

3. "Fiduciary" means a trustee, guardian, executor, administrator, receiver, or any other person acting in a fiduciary capacity, or any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary.

4. "Financial institution" means a bank, insurance company, credit union, safety deposit company, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

5. "Obtain" means:

a. In relation to property, to bring about a transfer or purported transfer of interest in the property, whether to the actor or another; or

b. In relation to services, to secure performance thereof.

6. "Property" means any money, tangible or intangible personal property, property (whether real or personal) the location of which can be changed (including things growing on, affixed to, or found in land and documents although the rights represented thereby have no physical location), contract right, chose-in-action, interest in or claim to wealth, credit, or any other article or thing of value of any kind. "Property" also means real property the location of which cannot be moved if the offense involves transfer or attempted transfer of an interest in the property.

7. "Property of another" means property in which a person other than the actor or in which a government has an interest which the actor is not privileged to infringe without consent, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person or government might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has

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a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security agreement. "Owner" means any person or a government with an interest in property such that it is "property of another" as far as the actor is concerned.

8. "Receiving" means acquiring possession, control, or title, or lending on the security of the property.

9. "Services" means labor, professional service, transportation, telephone, mail or other public service, gas, electricity and other public utility services, accommodations in hotels, restaurants, or elsewhere, admission to exhibitions, and use of vehicles or other property.

10. "Stolen" means property which has been the subject of theft or robbery of a vehicle which is received from a person who is then in violation of NDCC §12.1-23-06.

11. "Threat: means an expressed purpose, however communicated, to:

a. Cause bodily injury in the future to the person threatened or to any other person; or

b. Cause damage to property; or

c. Subject the person threatened or any other person to physical confinement or restraint; or

d. Engage in other conduct constituting a crime; or

e. Accuse anyone of a crime; or

f. Expose a secret or publicize an asserted fact, whether true or false, tending to subject a person living or deceased, to hatred, contempt, or ridicule or to impair another's credit or business repute; or

g. Reveal any information sought to be concealed by the person threatened; or

h. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

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i. Take or withhold official action as a public servant, or cause a public servant to take or withhold official action; or

j. Bring about or continue a strike, boycott, or other similar collective action to obtain property or deprive another of his property which is not demanded or received for the benefit of the group which the actor purports to represent; or

k. Cause anyone to be dismissed from his employment, unless the property is demanded or obtained for lawful union purposes; or

l. Do any other act which would not in itself substantially benefit the actor or a group he represents but which is calculated to harm another person in a substantial manner with respect to his health, safety, business, employment, calling, career, financial condition, reputation, or personal relationship. Upon a charge of theft, the receipt of property in consideration for taking or withholding official action shall be deemed to be theft by threat regardless of whether the owner voluntarily parted with his property or himself initiated the scheme.

12. "Traffic" means:

a. To sell, transfer, distribute, dispense or otherwise dispose of to another person; or

b. To buy, receive, possess, or obtain control of, with intent to sell, transfer, distribute, dispense or otherwise dispose of to another person.

13. "Dealer in property" means a person who buys or sells property as a business.

12-03-14 Making or Uttering Slugs.

1. A person is guilty of an offense if he makes or utters a slug or slugs which do not exceed fifty dollars in value with intent to deprive a supplier of property or service sold or offered by means of a coin machine or with knowledge that he is facilitating such a deprivation by another person.

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2. In this section:

a. "Slug" means a metal, paper, or other object which by virtue of its size, shape, or any other quality is capable of being inserted, deposited, or other-wise used in a coin machine as an improper but effective substitute for a genuine coin, bill, or token;

b. "Coin machine" means a coin box, turnstile, vending machine, or other mechanical or electronic device or receptacle designed (1) to receive a coin or bill of a certain denomination or a token made for the purpose; and (2) in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing, or permit the acquisition of property or a public or private service.

c. "Value" of the slugs means the value of the coins, bills, or tokens for which they are capable of being substituted.

Article 4.

OFFENSES AGAINST PUBLIC ORDER, HEALTH,
SAFETY AND SENSIBILITIES

Division 1. Riot

12-04-01 Engaging in a Riot.

1. A person is guilty of an offense if he engages in a riot.

2. "Riot" means a public disturbance involving an assemblage of five or more persons which by tumultuous and violent conduct creates grave danger of damage or injury to property or persons or substantially obstructs law enforcement or other government function.

3. A person shall be convicted under §12-01-01 or §12-01-02 of attempt or conspiracy to commit an offense under this section only if he engages in the prohibited conduct under circumstances in which there is a substantial likelihood that his conduct will imminently produce a violation of this section. Mere presence at a riot is not an offense under this section.

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12-04-02 Disobedience of Public Safety Orders Under Riot Conditions.

A person is guilty of an offense if, during a riot as defined in §12-04-01(2), or when one is immediately impending, he disobeys a reasonable public safety order to move, disperse, or refrain from specified activities in the immediate vicinity of the riot. A public safety order is an order designed to prevent or control disorder, or promote the safety of persons or property, issued by the senior law enforcement official on the scene.

Division 2. Disorderly Conduct and Loitering

12-04-03 Disorderly Conduct.

1. A person is guilty of violating the ordinances of this City if, with intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another is harassed, annoyed or alarmed by his behavior, he:
 - a. Engages in fighting, or in violent, tumultuous or threatening behavior;
 - b. In a public place, uses abusive, insulting, or offensive language, or an abusive, insulting, or offensive gesture, under circumstances in which such language by its very utterance, or gesture, is likely to cause or provoke a disturbance or breach of the peace.
 - c. Makes unreasonable noise;
 - d. Obstructs vehicular or pedestrian traffic, or the use of a public facility;
 - e. Persistently follows a person in or about a public place or places;
 - f. While loitering in a public place for the purpose of soliciting sexual contact, he solicits such contact;
 - g. Creates a hazardous or seriously alarming condition by any act which he is not licensed or privileged to do.
 - h. Enters on the property of another and for a lewd or unlawful purpose looks into a dwelling on the property through any window or other opening in the dwelling;

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i. Not being a peace officer, discharges a firearm or displays a deadly weapon in a public place;

j. Exposes his genitals under circumstances in which, in fact, his conduct is likely to be observed by a person who would be offended or alarmed, and with intent to arouse or gratify the sexual desire of any person, including the actor;

k. Throws any missile in a public place or in any place where there is any person to be endangered thereby, although no injury to any person ensues; or

l. Creates, by chemical means, a noxious and unreasonable odor in a public place .

m. Knowingly allows or permits another individual to engage in any illegal conduct.

2. A person whose conduct violates subdivisions a through g of subsection 1 is guilty of an offense. A person whose conduct violates subdivisions h through l of subsection 1 is guilty of an infraction.

3. Prosecutions under subdivisions b, e, and f of subsection 1 shall be instituted only upon complaint to a law enforcement officer by someone other than a law enforcement officer.

12-04-03.1 Disorderly House/Disorderly Vehicle.

An individual who knowingly permits disorderly conduct as described in Section 12-04-03 to occur within or upon any premises, property or motor vehicle owned, possessed, or under the individual's control is guilty of the offense of Disorderly House/Disorderly Vehicle. For a first offense under this section a court must impose a fine of at least Five Hundred Dollars (\$500.00). The court may not defer, suspend or stay the imposition of sentence or judgment provided herein. For any subsequent offense within five (5) years under this section a court must impose a fine of One Thousand Dollars (\$1000.00). The court may not defer, suspend or stay the imposition of sentence or judgment provided herein.

12-04-04 Defense When Conduct Consists of Speech or Other Expression.

1. If conduct that would otherwise violate §12-04-03(a) (c) (unreasonable noise) or §12-04-03(1) (a) (obstructing traffic or public facility) consists of speech or other communication, of gathering with others to hear or observe such speech or communication, or of gathering with others to

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picket or otherwise express in a non-violent manner a position on social, economic, political, or religious questions, the actor must be ordered to move, disperse, or otherwise remedy the violation prior to his arrest if he has not yet intentionally harmed the interests of others which those sections seek to protect.

2. The order required by this section may be given by a peace officer, a fireman, a person with authority to control the use of the premises, or any person directly affected by the violation.

3. It is a defense to prosecution under §12-04-03(1) (c) or (d);

a. that in circumstances in which this section requires an order no order was given;

b. that an order, if given, was manifestly unreasonable in scope; or

c. than an order, if given was promptly obeyed.

12-04-05 Loitering.

1. A person commits an infraction if he:

a. Loiters in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a peace officer, refuses to identify himself, or manifestly tries to conceal himself or any object.

b. Loiters in or about a school, college, or university building or grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil or student, or any other specific, legitimate reason for being here, and not having written permission from a school administrator or other person authorized to grant such permission.

2. The word "loiter" means to delay or to stand idly around.

3. Unless flight by the actor or other circumstance makes it impracticable, a peace officer shall prior to any arrest for an infraction under this section, afford the actor an opportunity to dispel any alarm which would otherwise be

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warranted, by requesting him to identify himself and explain his presence and conduct.

4. No person shall be convicted of an offense under this section if the peace officer did not comply with subsection 3, or if it appears at trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm.

5. It shall be an affirmative defense that the defendant's acts were lawful and he was exercising his right of lawful assembly as a part of peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise.

Comment

There is serious doubt about the possibility of drafting an ordinance proscribing conduct constituting offenses such as loitering and vagrancy with sufficient precision and specificity to meet constitutional attacks based upon asserted vagueness and overbreadth. A vagrancy ordinance similar to many ordinances currently in effect in North Dakota was held unconstitutional in Papachristou v. Jacksopville, 405 U.S. 156, 92 S. Ct. 839, 31 L. ED 2d 110 (1972). For a general discussion of constitutional problems with loitering and vagrancy statutes and ordinances, see Annotations at 25 A.L.R. 3d 792 and 836 (1969).

The ordinance presented here is derived for the most part from the Model Penal Code §250.6 and from Colo. Rev. Stat. Ann. §18-9-112 (1974) and N.Y. Penal Law §240.35 (McKinney 1967). An ordinance of Portland, Oregon derived from the Model Penal Code §250.6 was held to be unconstitutional in City of Portland v. White, 9 Or. App. 239, 495 P. 2d 778 (1972). See also U.S. ex rel. Newsome v. Malcolm 492 F. 2d 1166 (2d Cir. 1974) holding par240.35(6) of the New York statute unconstitutional.

Division 3. Gambling

12-04-06 Gambling.

1. It shall be an infraction to engage in gambling.
2. "Gambling" means risking any money, credit, deposit, or other thing of value for gain, contingent, wholly or partially, upon lot, chance, the operation of gambling apparatus, or the happening or outcome of an event, including an election or sporting event, over which the person taking the risk has no control. Gambling does not include:

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- a. Lawful contests of skill, speed, strength, or endurance in which awards are made only to entrants or to the owners of entries; or
 - b. Lawful business transactions, or other acts or transactions now or hereafter expressly authorized by law.
 - c. Legal games of chance as defined under NDCC §53-06.1 and which are authorized by the Board of City Commissioners.
3. "Gambling apparatus" means any device, machine, paraphernalia, or equipment that is used or usable in playing phases of any gambling activity, whether that activity consists of gambling between persons, or gambling by a person involving the playing of a machine. Gambling apparatus does not include an amusement game or device as defined in NDCC §53-03-01.

Division 4. Sexual Offenses

12-04-07 Prostitution.

- 1. A person is guilty of the offense of prostitution if he/she;
 - a. Is an inmate of a house of prostitution or is otherwise engaged in sexual activity as a business; or
 - b. Solicits another person with the intention of being hired to engage in sexual activity.
- 2. Testimony of a person against his or her spouse shall be admissible to prove offenses under this section involving the spouse's prostitution.
- 3. In this section:
 - a. "Sexual activity" means sexual act or sexual contact as those terms are defined in NDCC §12.1-20-02.
 - b. A "house of prostitution" is any place where prostitution is regularly carried on by a person under the control, management, or supervision of another.
 - c. An "inmate" is a prostitute who acts as such in or through the agency of a house of prostitution.

Comment

The ordinance proscribing prostitution is derived from NDCC §12.1-29-03,04 and 05. Definitions pertaining to the more serious offenses of promoting prostitution and facilitating

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prostitution have been omitted. Those two offenses are prohi-

bited as class C felonies or class A misdemeanors, depending on the circumstances, by NDCC §12.1-29-01 and 02, respectively.

12-04-08 Unlawful Cohabitation.

A person is guilty of an offense if he or she lives openly and notoriously with a person of the opposite sex as a married couple without being married to the other person.

Division 5. Sunday Business or Labor.

12-04-09 Business or Labor on Sunday.

1. Except as otherwise provided in subsections 2 and 3, it is an offense for any person on Sunday to engage in or conduct business or labor for profit in the usual manner and location, or to operate a place of business open to the public, or to authorize or direct his employees or agents to take such action. This subsection shall not apply to any person who in good faith observes a day other than Sunday as the Sabbath, if he refrains from engaging in or conducting business or labor for profit and closes his place of business to the public on that day.

2. The sale of any of the following item of personal property shall be allowed during any and all hours on Sundays:

a. Drugs, medical and surgical supplies, or any object purchased on the, written prescription of a licensed medical or dental practitioner for the treatment of a patient.

b. Food prepared for consumption on or off the premises where sold.

c. Newspapers, magazines, and books.

d. Gasoline, fuel additives, lubricants, and anti-freeze.

e. Tires.

f. Repair or replacement parts and equipment, necessary to, and safety devices intended for, safe and efficient operation of land vehicles, boats, and aircraft.

g. Emergency plumbing, heating, cooling, and electrical repair and replacement parts and equipment.

h. Cooking, heating, and lighting fuel.

i. infant supplies.

j. Camera and school supplies, stationery, and cosmetics.

3. The operations of any of the following businesses shall be allowed on Sundays:

- a. Restaurants, cafeterias, or other prepared food service organizations.
- b. Hotels, motels, and other lodging facilities.
- c. Hospitals and nursing homes.
- d. Dispensaries of drugs and medicines.
- e. Ambulance and burial services.
- f. Generation and distribution of electric power.
- g. Distribution of gas, oil, and other fuels.
- h. Telephone, telegraph, and messenger services.
- i. Heating, refrigeration, and cooling services.
- j. Railroad, bus, trolley, subway, taxi, and limousine services.
- k. Water, air, and land transportation services and attendant facilities.
- l. Cold storage warehouse.
- m. Ice manufacturing and distribution.
- n. Minimal maintenance of equipment and machinery.
- o. Plant and industrial protection services.
- p. Industries where continuous processing or manufacturing is required by the very nature of the process involved.
- q. Newspaper publication and distribution.
- r. Radio and television broadcasting.
- s. Motion picture, theatrical, and musical performances.
- t. Automobile service stations.

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- u. Athletic and sporting events.
- v. Parks, beaches, and recreational facilities.

- w. Scenic, historic, and tourist attractions.
- x. Amusement centers, fairs, zoos, museums.
- y. Libraries.
- z. Educational lectures, forums, and exhibits.
- aa. Service organizations (USO, YMCA, etc.).
- bb. Grocery stores operated by the owner-manager who regularly employs not more than three employees for the operation of said store.
- cc. Premises licensed to dispense beer and alcoholic beverages within the limits prescribed in NDCC §5-02-05.1.

Division 6. Cruelty to Animals

12-04-10 Cruelty to Animals.

- 1. It is an offense for any person to:
 - a. Overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when unfit for labor.
 - b. Deprive any animal over which he has charge or control of necessary food, water, or shelter;
 - c. Keep any animal in any enclosure without exercise and wholesome change of air;
 - d. Abandon any animal;
 - e. Allow any maimed, sick, infirm, or disabled animal of which he is the owner, or of which he has custody, to lie in any street, road, or other public place for more than three hours after notice;
 - f. No person shall willfully instigate, or in any way further, any act of cruelty to any animal or animals, or any act tending to produce such cruelty.
 - g. Cage any animal for public display except as allowed by
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- NDCC §36-21.1-02(7);
- h. Administer or expose any known poisonous substance or noxious drug, whether mixed with meat or other food or not, which may be eaten or is eaten by any domestic animal.

2. The word "animal" includes every living animal except the human race; the word "torture" or "cruelty" includes every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death shall be caused or permitted.

Comment

Since municipal prohibition of cruelty to animals is specifically authorized by NDCC §40-05-01(42) an ordinance is included despite the fact that the offenses specified in NDCC §36-21.1 have been classified as class A misdemeanors. The language is taken directly from NDCC §36-21.1-01, 02, and 04. A provision corresponding to NDCC §36-21.1-03 regarding cruelty in transportation was omitted since the conduct prohibited by that section would seem to be also prohibited by the general cruelty language.

Division 7. Alcohol Related Offenses

12-04-11 Persons Less Than Twenty-one Years Prohibited - Exceptions

1. Any person under twenty-one years of age purchasing, attempting to purchase, or being in possession of alcoholic beverages, or furnishing money to any person for such purchase, or entering any licensed premises where such beverages are being sold or displayed, except as provided by subsection 2, is guilty of an offense.

2. Any person under twenty-one years of age may remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the room in which alcoholic beverages are opened or mixed, if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, and if (1) accompanied by a parent or legal guardian, (2) employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of a person twenty-one or more years of age, and not engaged in the sale, dispensing, delivery or consumption of alcoholic beverages, or (3) if the person is a law enforcement officer entering the premises in the performance of official duty. Any establishment where alcoholic beverages are sold may employ persons from eighteen

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to twenty-one years of age to work in the capacity of musicians under the direct supervision of a person over twenty-one years of age.

12-04-12 Misrepresentation of Age - Obligations of Licensee.

Any person who shall misrepresent or misstate his age or the age of any other person) or shall misrepresent his age through presentation of any document purporting to show such person to be of legal age to purchase alcoholic beverages shall be guilty of an offense. Every licensee shall be required to keep a book which such licensee and his employees shall require anyone who has shown documentary proof of his age) which substantiates his age to allow the purchase of alcoholic beverages) to sign such book of the age of such person is in question. Such book shall show the date of the purchase) the identification used in making the purchase and the appropriate numbers of such identification) the address of the purchaser) and his signature.

12-04-13 Bottle Clubs Prohibited.

Any person operating an establishment whereby persons are allowed to bring their own alcoholic beverages on the premises where the proprietor sells soft drinks, mix, ice, or charges for bringing such beverages on the premises, is guilty of an offense.

12-04-14 Public Intoxication - Assistance - Medical Care.

A peace officer shall have authority to take any apparently intoxicated person to his home, to a local hospital, or, whenever such person constitutes a danger to himself or others, to a jail for the purposes of detoxification. A duly licensed physician of such local hospital shall have authority to hold such person for treatment up to seventy-two hours. Such intoxicated person shall not be held in jail because of intoxication more than twenty-four hours. An intoxicated person shall not be placed in a jail unless a jailer is constantly present within hearing distance and medical services are provided when the need is indicated. Upon placing such person in a hospital or jail, said peace officer shall notify the intoxicated person's family as soon as possible. Any additional costs incurred by the city on account of an intoxicated person shall be recoverable from such person.

12-04-15 No Prosecution for Intoxication.

No person shall be prosecuted solely for public intoxication. Law enforcement officers may utilize standard identification procedures on all persons given assistance because of apparent intoxication.

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Division 8. Protection of Minors

12-04-16 Objectionable Materials or Performance - Display to Minors - Definitions - Penalty

1. A person is guilty of an offense if he willfully displays at newsstands or any other business establishment frequented by minors, or where minors are or may be invited as a part of the general public, any photograph, book, paperback book, pamphlet, or magazine, the exposed cover or available content of which exploits, is devoted to, or is principally made up of depictions of nude or partially denuded human figures posed or presented in a manner to exploit sex, lust or perversion for commercial gain.

2. As used in this section:

a. "Nude or partially denuded human figures" means less than completely and opaquely covered human genitals, pubic regions, female breasts or a female breast, if the breast or breasts are exposed below a point immediately above the top of the areola, or human buttocks; and includes human male genitals in a discernibly turgid state even if completely and opaquely covered.

b. Where minors are or may be invited as apart of the general public includes any public roadway or public walkway.

c. The above shall not be construed to include a bona fide school, college, university, museum, public library, or art gallery.

12-04-17 Use of Streets Restricted to Persons Under 18, When.

1. Loitering of Minors Prohibited: It shall be unlawful for any minor under the age of 18 years to loiter, idle, wander, stroll, play, or drive or ride in cars in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, and public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places, between the hours of 10:00 P.M. and 5:00 A.M. on all nights except Friday and Saturday when the curfew is set at 12:00 midnight. The foregoing hours requirements shall be for all months of the year except June, July, and August. During June, July and August the curfew is set at 12:00 midnight on all nights of the week, not only Friday and Saturday. On special occasions the Commission could act and set a definite time for this special occasion. That provision of this section does not apply to a minor accompanied by his or her parents, guardian, or other adult having the care and custody of the minor, or

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where the minor is upon an emergency errand or legitimate business directed by his or her parents, guardian, or other adult person having the care and custody of the minor. Each violation of the provisions of this section shall constitute a separate offense.

2. Responsibility of Parents: It shall be unlawful for the parents, guardian, or other adult person having the care and custody of a minor under the age of 18 years to knowingly permit such minor to loiter, idle, wander, stroll, play, or drive or ride in cars in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, and public buildings, places of amusement and entertainment) vacant lots, or other unsupervised places, between the hours of 10:00 P.M. and 5:00 A.M. on all nights except Friday and Saturday when the curfew is set at 12:00 midnight. The foregoing hours requirements shall be for all months of the year except June) July, and August. During June, July and August the curfew is set at 12:00 midnight on all nights of the week, not only Friday and Saturday. On special occasions the Commission could act and set a definite time for this special occasion. That provision of this section does not apply to a minor accompanied by his or her parents, guardian, or other adult having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his or her parents, guardian, or other adult person having the care and custody of the minor. Each violation of the provisions of this section shall constitute a separate offense.

3. Penalties: Any minor violating the provisions of section 1 shall be dealt with in accordance with Juvenile Court Law and procedure. A parent, guardian, or other adult person having the care and custody of a minor violating shall be fined the sum of not more than Ten Dollars or by imprisonment for not more than ten days, or both such fine and imprisonment in the discretion of the Court; the Court shall have the power to suspend such sentence and to revoke the suspension thereof.

12-04-17.1 Delinquency of Minors.

A person is guilty of an offense if he by any act willfully encourages, causes or contributes to the delinquency or deprivation of any minor.

Division 9. Miscellaneous Offenses

12-04-18 Smoking Prohibited by Minors.

It shall be unlawful for any minor under the age of 18 years to smoke or chew any tobacco product of any type within the city limits of the City of New Rockford.

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12-04-19 Noise Prohibited.

No person shall make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the city.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but such enumeration shall not be deemed to be exclusive, namely:

(a) Horns, Signaling Devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, street car or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

(b) Radios, Phonographs, etc. The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 P.M. and 7:00 A.M. in such a manner as to plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(c) Yelling, Shouting, etc. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M. or at any time or place so as to annoy or disturb the quiet, comfort; or repose of persons in any office or in any dwelling, hotel or other type of residence or of any persons in the vicinity.

(d) Animals Birds etc. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

(e) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

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(f) Defect in Vehicle or Load. The use of any automobile, motor-cycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(g) Schools, Courts, Churches, Hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use or adjacent to any hospital which unreasonably interferes with the working of such institution which disturbs or unduly annoys patients in the hospital; provided, that conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

(h) Hawkers, Peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(i) Drums. The use of any drum or other instrument or device for the purpose of-attracting attention by creation of noise to any performance, show or sale.

12-04-19.1 Engine Brakes and Compression Brakes.

1. It is unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the city limits of the city of New Rockford, any engine brake, compression brake, or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual, or explosive noise from such vehicle.

2. The fine for a violation of this section shall be fifty (\$50.00) dollars.

12-04-20 Firearms, Discharging of.

It shall be unlawful for any person within the City to fire off or discharge any gun or firearm except officers in discharge of their duties or members of the militia on their rifle range or regularly organized gun clubs on their regular shooting grounds or to discharge or cause to be discharged, any toy pistol, toy gun, air gun, blank cartridge, revolver, any type of bow and arrow, or any other arm or arms or slingshot loaded with rock or other dangerous missiles at any time or under any circumstances within the limits of the City or unless special permission therefor has been granted by the Police Department or the City Commission. Provided that nothing in this section shall be construed to apply to the firing of any gun or other firearm when done in defense of self or home or in other cases of actual necessity.

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12-04-21 Indecent Exposure; Lewdness.

No person shall appear in any street or public place in a state of nudity or in any indecent or lewd dress or make any indecent exposure of his person, or be guilty of any obscene or filthy act or any lewd, indecent, immoral or insulting conduct, language or behavior.

12-04-22 Possession of Marijuana.

It shall be an offense for any person, except a person operating a motor vehicle, to have possession of marijuana in an amount not more than one-half (1/2) ounce (14.175 grams) within the jurisdictional limits of the City of New Rockford.

12-04-23 Removal of Snow to City Property.

It shall be an offense for any person to remove snow from private property to a city alley, street or sidewalk. For a first violation of this ordinance, a \$20.00 fine shall be imposed. For any further violation, a fine of \$50.00 shall be imposed.

Article 5

SENTENCING

12-05-02 Sentencing, Alternatives.

1. Every person convicted of an offense who is sentenced by the court shall be sentenced to one or a combination of the following alternatives, unless the sentencing alternatives are otherwise specifically provided in the statute defining the offense:

- a. Payment of the reasonable costs of his prosecution.
- b. Probation.
- c. A term of imprisonment, including intermittent imprisonment.
- d. A fine.
- e. Restitution for damages resulting from the commission of the offense.
- f. Restoration of damaged property, or other appropriate work detail.

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g. Commitment to an appropriate licensed public or private institution for treatment of alcoholism, drug addiction, or mental disease or defect.

Sentences imposed under this subsection shall not exceed in duration the maximum sentences provided in 12-05-12, or as provided specifically in an ordinance defining an offense.

This subsection shall not be construed as not permitting the unconditional discharge of an offender following conviction. Sentences under subdivisions e or f shall be imposed in the manner provided in §12-05-09. This subsection shall not be construed to prohibit utilization of NDCC §40-18-13 relating to suspension of sentence, nor shall this subsection limit the conditions which can be imposed on a probationer under §5-7.

2. Credit against any sentence to a term of imprisonment shall be given by the court to a defendant for all time spent in custody as a result of the criminal charge for which the sentence was imposed, or as a result of the conduct on which such charge was based. "Time spent in custody" shall include time spent in custody in a jail or mental institution for the offense charged, whether that time is spent prior to trial, during trial, pending sentence, or pending appeal.

3. A court may, at any time prior to the time custody of a convicted offender is transferred to a penal institution or institution for treatment, suspend all or a portion of any sentence imposed pursuant to this section.

4. A court may refer a person convicted of driving while under the influence of an intoxicating liquor or a narcotic drug, prior to sentencing, to an approved treatment facility for diagnosis. Upon receipt of the results of this diagnosis, the court may impose a sentence as prescribed in §19-1 of chapter 1 or it may sentence the person to treatment in a facility approved by the State division of alcoholism and drug abuse.

5. All sentences imposed shall be accompanied by a written statement by the court setting forth the reasons for imposing the particular sentence. The statement shall become part of the record of the case.

6. If an offender is sentenced to a term of imprisonment, that term of imprisonment commences at the time of the sentencing, unless, upon motion of the defendant, the court orders the term to commence at some other time.

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12-05-03 Procedure for Trial of Infraction - Incidents.

1. Except as provided in this subsection, all procedural provisions relating to the trial of criminal cases as provided in the statutes or rules relating to criminal procedure shall apply to the trial of a

person charged with an infraction. A person charged with an infraction is not entitled to be furnished counsel at public expense unless he may be subject to a sentence of imprisonment under subsection 2 of §12-05-01,

2. Except as provided in NDCC title 12.1 or the ordinances of this City, all provisions of law and rules of criminal procedure relating to offenses shall apply to infractions, including, but not limited to, the powers of law enforcement officers, the periods for commencing action and bringing a case to trial, and the burden of proof.

3. Following conviction of an infraction, the offender may be sentenced in accordance with subsection 1 of §12-05-02, except that a term of imprisonment may not be imposed except in accordance with subsection 3 of §12-05-06, or subsection 2 of §12-05-01.

4. If an ordinance provides that conduct is an infraction without specifically including a requirement of culpability, no culpability is required.

5. Except as provided in this section §12-05-01 or 12-05-02, or as the context may otherwise indicate a differentiation between the infraction classification and the offense classification, the term "offense" refers to all violations of the ordinances of this city including infractions.

12-05-04 Special Sanction for Organizations.

When an organization is convicted of an offense, the court may, in addition to any other sentence which may be imposed, require the organization to give notice of its conviction to the persons or class of persons ostensibly harmed by the offense, by mail or by advertising in designated areas or by designated media or otherwise.

12-05-05 Factors to be Considered in Sentencing.

The following factors, or the converse thereof where appropriate, while not controlling the discretion of the court, shall be accorded weight in making determinations regarding the desirability of sentencing an offender to imprisonment:

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1. The defendant's criminal conduct neither caused nor threatened serious harm to another person or his property.

2. The defendant did not plan or expect that his criminal conduct would cause or threaten serious harm to another person or his property.

3. The defendant acted under strong provocation.

4. There were substantial grounds which, though insufficient to establish a legal defense, tend to excuse or justify the defendant's conduct.

5. The victim of the defendant's conduct induced or facilitated its commission.

6. The defendant has made or will make restitution or reparation to the victim of his conduct for the damage or injury which was sustained.

7. The defendant has no history of prior delinquency or criminal activity, or has led a law-abiding life for a substantial period of time before the commission of the present offense.

8. The defendant's conduct was the result of circumstances unlikely to recur.

9. The character, history, and attitudes of the defendant indicate that he is unlikely to commit another crime.

10. The defendant is particularly likely to respond affirmatively to probationary treatment.

11. The imprisonment of the defendant would entail undue hardship to himself or his dependents.

12. The defendant is elderly or in poor health.

13. The defendant did not abuse a public position of responsibility or trust.

14. The defendant cooperated with law enforcement authorities by bringing other offenders to justice, or otherwise cooperated.

Nothing herein shall be deemed to require explicit reference to these factors in a presentence report or by the court at sentencing.

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12-05-06 Imposition of Fine -Response to Non-Payment.

1. The court, in making a determination of the propriety of imposing a sentence to pay a fine, shall consider the following factors:

- a. The ability of the defendant to pay without undue hardship.
- b. Whether the defendant, other than a defendant organization, gained money or property as a result of commission.
- c. Whether the sentence to pay a fine will interfere with the defendant's capacity to make restitution.
- d. Whether a sentence to pay a fine will serve a valid rehabilitative purpose.

2. The court may allow the defendant to pay any fine or costs imposed in installments. When a defendant is sentenced to pay a fine or costs, the court shall not impose at the same time an alternative sentence to be served in the event that the fine or costs are not paid.

3. If the defendant does not pay any fine or costs imposed, or make any required partial payment, the court, upon motion of the prosecuting attorney or on its own motion, may issue an order to show cause why the defendant should not be imprisoned for nonpayment. Unless the defendant shows that his default is excusable, the court may, after hearing, commit him to imprisonment until the fine, or costs, or both, are fully paid or discharged by labor as provided in NDCC §40-18-12.

The court may not commit a person under this section when the sole reason for his nonpayment is his indigency. An order of commitment under this subsection shall not be for a period in excess of thirty days.

12-05-07 Incidents of Probation.

1. Unless terminated as provided in subsection 2, the period during which a sentence to probation shall remain conditional and be subject to revocation is two years.

2. The court may terminate a period of probation and discharge the defendant at any time earlier than that provided in subsection 1 if warranted by the conduct of the defendant and the ends of justice.

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3. Notwithstanding the fact that a sentence to probation can subsequently be modified or revoked, a judgment which includes such a sentence shall constitute a final judgment for all other purposes.

12-05-08 Conditions of Probation - Revocation.

1. The conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation that the defendant not commit another offense during the period for which the sentence remains subject to revocation.
2. When imposing a sentence to probation, the court may impose such conditions as it deems appropriate, and may include any one or more of the following:
 - a. Work faithfully at a suitable employment or faithfully pursue a course of study or of vocational training that will equip him for suitable employment.
 - b. Undergo available medical or psychiatric treatment and remain in a specified institution as required for that purpose.
 - c. Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.
 - d. Support his dependents and meet other family responsibilities.
 - e. Make restitution or reparation to the victim of his conduct for the damage or injury which was sustained, or perform other reasonable assigned work. When restitution, reparation, or assigned work is a condition of the sentence, the court shall proceed as provided in §5-9.
 - f. Pay a fine imposed after consideration of the provisions of §12-05-06.
 - g. Refrain from possessing a firearm, destructive device, or other dangerous weapon unless granted written permission by the court.
 - h. Refrain from excessive use of alcohol, or any use of narcotics or of another dangerous or abusable drug without a prescription.

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 - i. Promptly notify the court of any change of address or employment.
 - j. Remain within the jurisdiction of the court, unless granted permission to leave by the court.
 - k. Refrain from associating with known users or traffickers in narcotics, marijuana, or other controlled substances.

3. When a defendant is sentenced to probation, he shall be given a certificate explicitly setting forth the conditions on which he is being released.

4. The court may, upon notice of the probationer, modify or enlarge the conditions of a sentence to probation at any time prior to the expiration or termination of the period for which the sentence remains conditional. If the defendant violates a condition at any time prior to the expiration or termination of the period, the court, may, pursuant to the procedure specified in N.D.R. Crim. P. 32(f), continue him on the existing sentence, without modifying or enlarging the conditions, or, if such continuation, modification, or enlargement is not appropriate, may impose any other sentence that was available under §12-05-02 at the time of the initial sentencing.

5. Jurisdiction over a probationer may be transferred from the court which imposed the sentence to another court of this state, with the concurrence of both courts. Retransfers of jurisdiction may also occur in the same manner. The court to which jurisdiction has been transferred under this subsection shall be authorized to exercise all powers permissible under this chapter over the defendant. .

12-05-09 Restitution or Reparation - Procedures.

1. Prior to imposing restitution or reparation as a sentence or condition of probation, the court shall hold a hearing on the matter with notice to the prosecuting attorney and to the defendant as to the nature and amount thereof. At or following the hearing, the court shall make determination as to:

- a. The reasonable damages sustained by the victim or victims of the criminal offense, which damages shall be limited to fruits of the criminal offense and expenses actually incurred as a direct result of the defendant's criminal action.

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b. The ability of the defendant to restore the fruits of the criminal action or to pay monetary reparations, or to otherwise take action to restore the victim's property.

c. The likelihood that attaching a condition relating to restitution or reparation will serve a valid rehabilitational purpose in the case of the particular offender considered.

The court shall fix the amount of restitution or reparation, which shall not exceed an amount the defendant can or will be able to pay, and shall fix the manner of performance of any condition or conditions

of probation established pursuant to this subsection. Any payments made pursuant to such order shall be deducted from damages awarded in a civil action arising from the same incident. An order that a defendant make restitution or reparation as a sentence or condition of probation may, if the court so directs, be filed, transcribed, and enforced by the person entitled to the restitution or reparation in the same manner as civil judgments rendered by the courts of this state may be enforced.

2. The court may order the defendant to perform reasonable assigned work as a condition of probation, which assigned work need not be related to the offense charged, but must not be solely for the benefit of a private individual other than the victim.

12-05-10 Merger of Sentences -Sentencing for Multiple Offenses.

1. Unless the court otherwise orders, when a person serving a term of commitment is committed for another offense or offenses, the shorter term or the shorter remaining term shall be merged in the other term. When a person on probation or parole for an offense or offenses, the period still to be served on probation or parole shall be merged in any new sentence of commitment or probation. When the court merges sentences under this subsection it shall forthwith furnish the penal facility in which the defendant is confined under sentence with authenticated copies of its sentence, which shall cite the sentences being merged. If the court has imposed a sentence which is merged pursuant to this subsection, it shall modify such sentence in accordance with the effect of the merger.

2. A defendant may not be consecutively sentenced to more than one year.

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12-05-11 Severability Clause.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

12-05-12 Penalties.

Any person who is convicted of violating or of failing to comply with any of the provisions of this ordinance may be punished by a fine of not more than \$1000.00 or by imprisonment not to exceed 30 days or both.

OFFENSES AND INFRACTIONS

12-05-13 Sentencing Alternatives.

Sentences imposed under this subsection shall not exceed in duration the maximum sentences provided in 12-05-12, or as provided specifically in an ordinance defining an offense.

ORDINANCE ENACTMENT

AN ORDINANCE REPEALING AND AMENDING AND REENACTING CHAPTER 13, OF THE "REVISED ORDINANCES OF THE CITY OF NEW ROCKFORD, NORTH DAKOTA" REGARDING TRAFFIC.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF NEW ROCKFORD, EDDY COUNTY, NORTH DAKOTA, PURSUANT TO THE HOME RULE CHARTER OF THE CITY OF NEW ROCKFORD, NORTH DAKOTA:

THAT CHAPTER 13 OF THE REVISED ORDINANCES OF THE CITY OF NEW ROCKFORD IS HEREBY AMENDED AND RE-ENACTED TO READ AS FOLLOWS:

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TRAFFIC

Revised July 2017

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CHAPTER THIRTEEN

TRAFFIC

ARTICLE 1 - Definitions

13-01-01 Definitions

Words and phrases used in this chapter shall have the meaning and be defined as provided in Title 39 of the North Dakota Century Code, and North Dakota Century Code section 39-01-01 and all subsequent amendments are hereby incorporated by reference in this ordinance.

ARTICLE 2 - Traffic Administration

13-02-01 Duty of Police Department

It shall be the duty of the police department to enforce the street traffic regulations of the City and all of the state vehicle laws, to make arrests for traffic violations, to investigate accidents and to cooperate with other officers of the City in the administration of the traffic laws and in developing ways to improve traffic conditions and carry out the traffic ordinances of the City.

13-02-02 Reserved.

13-02-03 Police Department to Investigate Accidents

It shall be the duty of the police department to investigate traffic accidents and to arrest and assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.

Every law enforcement officer, who in the regular course of duty investigates a motor vehicle accident required to be reported as provided in Section 13-03-09, either at the time and at the scene of the accident or thereafter by interviewing the participants or witnesses, shall make and forward promptly a written report of such accident to the director of the North Dakota Department of Transportation.

ARTICLE 3 - Enforcement and Obedience to Traffic Regulations

13-03-01 Authority of Police and Fire Department Officials

1. It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws of this City and all of the state vehicle laws.
2. Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to

direct all traffic by voice, hand or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

3. Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic.

13-03-02 Obedience to Traffic Ordinances

It shall be unlawful for any person to do any act prohibited by this Chapter or fail to perform any act required by this Chapter, and upon conviction of a violation of any of the provisions of this Chapter every person shall, except as otherwise provided, be punished as provided in Article 29 of this Chapter.

13-03-03 Obedience to Police Officers or Firefighters

No person shall willfully refuse to comply with any lawful order or direction of any police officer or firefighter invested by law with authority to direct, control, or regulate traffic.

13-03-04 Certain Non-Motorized Traffic to Obey Traffic Regulations

1. Every person propelling any pushcart upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter and by the rules of the road portion of the state vehicle code, except those provisions which by their very nature can have no application.
2. Every person riding a bicycle or animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions of this ordinance which by their very nature can have no application.

13-03-05 Use of Coasters, Roller Skates and Similar Devices Restricted

No person upon roller skates, or riding in, upon or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street at a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized herein.

13-03-06 Public Employees to Obey Traffic Regulations

The provisions of this chapter shall apply to the drivers of all vehicles owned or operated by the United States, this state, or any county, city, township, school district or any other political subdivision, subject to such specific exceptions as are set forth in this chapter or in state law.

13-03-07 Emergency Vehicles

The provisions of North Dakota Century Code sections 39-10-03, 39-10-03.1, and 39-10-03.2 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Authorized emergency vehicles. Class A authorized emergency vehicle shall mean:
 - a. Vehicles of a governmentally owned fire department;
 - b. Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this chapter pertaining to all motor vehicles or by a salaried employee of the city police department within the city or by any sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of Class A authorized emergency vehicles;
 - c. Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation;
 - d. Ambulances;
 - e. Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the North Dakota Game and Fish Department;
 - f. Vehicles owned or leased by the United States and used for law enforcement purposes;
 - g. Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency;
 - h. Vehicles operated by or under the control of the director of the North Dakota Parks and Recreation Department;

- i. Vehicles operated or under the control of a licensed railroad police officer and used for law enforcement purposes;
 - j. Vehicles operated by or under the control of the North Dakota State Forester. (Source: North Dakota Century Code section 39-01-01)
2. The driver of a Class A authorized emergency vehicle may:
 - a. Park or stand, irrespective of the provisions of this chapter;
 - b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - c. Exceed the speed limit so long as he does not endanger life or property;
 - d. Disregard regulations governing directions of movement or turning in specified directions.
3. The exceptions herein granted to a Class A authorized emergency vehicle shall apply only:
 - a. When the authorized emergency vehicle is in pursuit of or apprehension of a violator or a suspected violator requiring the use of these exemptions;
 - b. When the Class A authorized emergency vehicle is being operated in response to a reported emergency involving a possible personal injury, death, or damage to property, and when giving adequate warning by use of a flashing red or combination red and white lights that are visible under normal atmospheric conditions for at least five hundred feet (152.4 meters) and if appropriate, giving audible signal by siren or airhorn. A law enforcement vehicle that is otherwise a Class A authorized emergency vehicle may display a flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision;
 - c. In any instance when the head of a law enforcement agency deems advisable within the area of that person's jurisdiction for the protection of person and property and when giving audible signal by siren or when giving adequate warning by use of a flashing red or combination red and white lights which are visible under normal atmospheric conditions for at least five hundred feet (152.4 meters). A law enforcement vehicle that is otherwise a Class A authorized emergency vehicle may

display a flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision.

4. An emergency vehicle may not display or permit to be displayed any red lamp except when operated on official business.
5. Any law enforcement officer as provided in paragraph 2 of subdivision (a) of subsection 2 of Section 39-01-01 of the North Dakota Century Code having stopped another vehicle along a highway, and while still involved in that incident, or any other such activity, may use amber lights, visible under normal atmospheric conditions for at least five hundred feet (152.4 meters), for the purpose of maintaining traffic flow.
6. Class B authorized emergency vehicles shall mean wreckers and such other emergency vehicles as are authorized by local authorities. (Source: North Dakota Century Code section 39-01-01)
7. The driver of Class B authorized emergency vehicles may:
 - a. Park or stand, irrespective of the provisions of this chapter;
 - b. Exceed the speed limit so long as he does not endanger life or property during the time of a local or national disaster;
 - c. Disregard regulations governing direction of movement or turning in specified directions.
8. The exceptions herein granted to a Class B authorize emergency vehicle shall apply only when the authorized emergency vehicle is displaying an amber light visible under normal atmospheric conditions for a distance of five hundred feet (152.4 meters) in any direction, and
 - a. When it is necessary for the authorized emergency vehicle to use these exemptions for the immediate protection of life or property;
 - b. When an authorized emergency vehicle is stopped on a highway for the purpose of performing a duty as required of the driver; or
 - c. When traveling at a speed slower than the normal flow of traffic. (Source: North Dakota Century Code section 39-10-03.1)
9. Class C authorized emergency vehicles means:

- a. Vehicles authorized by the state division of homeland security or local division of emergency management organizations;
 - b. Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
 - c. Vehicles other than ambulance, used by emergency medical services personnel. (Source: North Dakota Century Code section 39-01-01)
10. Class C authorized emergency vehicles. All Class B specifications apply to Class C authorized emergency vehicles except that a rotating blue flashing light shall be displayed in place of an amber light as provided in section 39-10-03.1 of the North Dakota Century Code. With respect to vehicles used by state and local disaster emergency services personnel, the division of homeland security is responsible for adopting rules for the use of flashing blue lights in accordance with chapter 28-32 of the North Dakota Century Code. (Source: North Dakota Century Code section 39-10-03.2)

13-03-08 Operation of Vehicles on Approach of Authorized Emergency Vehicles

The provisions of NDCC section 39-10-26 and all subsequent amendments are hereby incorporated by reference in this ordinance.

- 1. Upon the immediate approach of an authorized emergency vehicle displaying a visible flashing, revolving, or rotating blue, white, or red light, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb or the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
- 2. Whenever an emergency vehicle is parked or stopped at the scene of an emergency and is displaying a flashing, revolving, or rotating blue, white, or red light, approaching traffic shall move to the right-hand edge or curb of the roadway and shall stop, but once having stopped, traffic may proceed past the scene at its own risk when the roadway is clear, except when otherwise directed by a police officer.
- 3. This section shall not operate to relieve the driver of any authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highways.

4. Any individual who violates subsection 2 and causes an accident with an authorized emergency vehicle while the authorized emergency vehicle is displaying a visible flashing, revolving, or rotating amber, blue, or red light is guilty of an infraction.

13-03-09 Written Report of Accident

1. Officer to report. Every law enforcement officer, who in the regular course of duty investigates a motor vehicle accident required to be reported as provided in subsection 1 either at the time and at the scene of the accident or thereafter by interviewing the participants, or witnesses, shall make and promptly forward to the director of the Department of Transportation a report of the accident in a format prescribed by the director. (Source: North Dakota Century Code section 39-08-10)
2.
 - a. An accident notice is not required from any person who is physically incapable of making the report during the period of such incapacity.
 - b. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall make or cause to be given the notice not given by the driver.
 - c. Whenever the driver is physically incapable of giving notice of an accident and such driver is not the owner of the vehicle, then the owner of the vehicle involved shall within five (5) days after learning of the accident give such notice and insurance information not given by the driver. (Source: North Dakota Century Code Section 39-08-11)
3. Garages to report. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in a reportable accident as provided in Section 13-03-09(1) or of being struck by any bullet, shall report or cause a report to be made to a police officer within twenty-four (24) hours after such motor vehicle is received, and before any repairs are made to such vehicle, giving the registration number and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff or highway patrolman bearing information to show that the accident in which the vehicle was involved had been investigated. The police officer investigating any

reportable accident shall attach a sticker to the window of any damaged vehicle showing that the accident in which such vehicle was involved has been investigated. If the vehicle does bear such a sticker, the garage or repair shop need not make the report this section requires and may begin repairs immediately. After repairs have been made and before the vehicle is released, the sticker provided herein must be removed. (Source: North Dakota Century Code section 39-07-12)

4. Wrecker and towing services to report. The person in charge of the operator of any commercial towing or wrecker service which causes any motor vehicle to be transported to a private residence or business other than a garage or repair shop which show evidence of having been involved in a reportable accident as provided in section 13-03-09 or of being struck by any bullet shall report or cause a report to be made to a police officer within twenty-four hours after such motor vehicle is transported. The report must give the registration number, and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, along with the location such vehicle was transported to, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff, or highway patrolman, bearing information to show that the accident in which the vehicle was involved has been investigated. If the vehicle does bear such a sticker the towing or wrecker service need not make the report this section requires. (Source: North Dakota Century Code section 39-07-13)

13-03-10 Penalty

1. Unless otherwise specified or stated in this chapter, any person who shall violate any provisions of this article shall be subject to a fine not to exceed fifty dollars (\$50.00).

ARTICLE 4 - Traffic Control Devices

13-04-01 Authority to Install

The city engineer or any person authorized by the City governing body shall place and maintain traffic-control signs, signals, and devices when and as required under the traffic ordinances of the City to make effective the provisions of said ordinances, and may place and maintain such additional traffic-control devices as necessary to regulate traffic under the traffic ordinances of the City or under state law, or to guide or warn traffic.

13-04-02 Specifications for

All traffic-control signs, signals, and devices shall conform to the specifications approved by the director of the North Dakota Department of Transportation pursuant to North Dakota Century Code section 39-13-06. All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the City. All traffic-control devices so erected and not inconsistent with the provisions of state law or this article shall be official traffic-control devices.

13-04-03 Obedience to Traffic-Control Devices

The provisions of North Dakota Century Code section 39-10-04 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.
2. No provision of this chapter for which traffic-control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a state statute does not state that devices are required, such statute shall be effective even though no devices are erected or in place.
3. Whenever official traffic-control devices are placed in position approximately conforming to the requirements of state law, such devices shall be presumed to have been so placed by the official act or direction of lawful authority unless the contrary shall be established by competent evidence.
4. Any official traffic-control device placed pursuant to the provisions of state law and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of the chapter, unless the contrary shall be established by competent evidence.

13-04-04 Unauthorized Signs

The provisions of North Dakota Century Code section 39-10-07.2 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No person may place, maintain, or display upon or in view of any highway, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device or any railroad sign or signal.
2. No person may place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.
3. This section may not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.
4. Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice when located on highway right of way.
5. No person may place, maintain, or display upon or within the right of way of any highway any sign, post, pole, mailbox, or signal which has a red lamp or red reflector visible to traffic. The provisions of this subsection shall not apply to official traffic devices, lamps, or reflectors on motor vehicles or bicycles, or railroad signals or signs.
6. This section does not prohibit the use of portable battery-powered warning devices emitting a flashing red light placed upon a highway to alert oncoming traffic to a disabled or stopped motor vehicle.

13-04-05 Interference with Official Traffic Control Device or Sign

The provision of North Dakota Century Code section 39-10-07.3 and all subsequent amendments are hereby incorporated by reference in this ordinance.

A person may not, without lawful authority, attempt to or in fact alter, deface, injure, knock down, remove, or interfere with the operation of any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

13-04-06 Designation of Walks, Lanes, etc.

The city engineer or any person authorized by the City governing body shall:

1. Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where there is particular danger to pedestrians crossing the roadway, and at such other places as directed by the City governing body.
2. Establish safety zones of such kind and character and at such places as may be deemed necessary for the protection of pedestrians as determined by the City governing body.
3. Mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement or performing other lawful traffic movements.

13-04-07 Penalty

Unless otherwise specified or stated in this Chapter, any person who shall violate any provisions of this article shall be subject to a fine not to exceed twenty dollars (\$20.00).

ARTICLE 5 - Speed Regulations and Care Required

13-05-01 Basic Rules - Careless Driving - Penalty for Violation

The provisions of North Dakota Century Code section 39-09-01 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. Any person who shall drive a vehicle upon a highway or private or public property open to the public for the operation of motor vehicles without heed to the requirements or restrictions of this section has committed careless driving, and must be assessed a fine of thirty dollars (\$30.00).

Any person who, by reason of careless driving as herein defined, causes and inflicts injury upon the person of an operator of snow removal

equipment engaged in snow removal operations or causes damage in excess of one thousand dollars (\$1,000.00) to snow removal equipment engaged in snow removal is guilty of an infraction.

As used in this section, "snow removal equipment" means a vehicle that is operated by a person employed by or on behalf of an authority in charge of the maintenance of the highway to perform winter maintenance snow and ice removal, including plowing, hauling away, salting, and sanding.

13-05-02 Speed Limitations

The provisions of North Dakota Century Code section 39-09-02 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Subject to the provisions of 13-05-01 and except in those instances where a lower speed is specified in this chapter, it presumably shall be lawful for the driver of a vehicle to drive the same at a speed not exceeding:
 - a. Twenty (20) miles an hour when approaching within fifty (50) feet of a grade crossing of any steam, electric, or street railway when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last two hundred (200) feet of the driver's approach to such crossing, the driver does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred (400) feet in each direction from such crossing;
 - b. Fifteen (15) miles an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours;
 - c. Twenty (20) miles an hour when approaching within fifty (50) feet and in traversing an intersection of highways when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last fifty (50) feet of the driver's approach to such intersection, the driver does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred (200) feet from such intersection;
 - d. Twenty (20) miles an hour when the driver's view of the highway ahead is obstructed within a distance of one hundred (100) feet;

- e. Twenty-five (25) miles an hour on any highway in a business district or in a residence district or in a public park, unless a different speed limit is designated and posted by local authorities;
 - f. Fifty-five (55) miles an hour under other circumstances, unless otherwise permitted, restricted, or required by conditions;
 - g. Sixty-five (65) miles an hour on paved two-lane highways of posted for that speed, unless otherwise permitted, restricted, or required by conditions;
 - h. Seventy (70) miles an hour on paved and divided multilane highways, unless otherwise permitted, restricted, or required by conditions; and
 - i. Seventy-five (75) miles an hour on access-controlled, paved and divided, multilane interstate highways, unless otherwise permitted, restricted, or required by conditions.
2. Except as provided by law, it is unlawful for any person to drive a vehicle upon a highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed by law or established pursuant to law.
 3. In charging a violation of the provisions of this section, the complaint must specify the speed at which the defendant is alleged to have driven and the speed which this section prescribes is prima facie lawful at the time and place of the alleged offense.

13-05-03 When Local Authorities May or Shall Alter Maximum Speed - Limits - Signs Posted

The provisions of North Dakota Century Code section 39-09-03 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Whenever the City, on the basis of an engineering and traffic investigation, determines that the maximum speed permitted under this chapter is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the City may determine and declare a reasonable and safe maximum limit thereon which:
 - a. Decreases the limit at intersections;
 - b. Increases the limit within an urban district but not to more than fifty-five (55) miles per hour; or
 - c. Decreases the limit outside an urban district.

2. The City shall determine by an engineering and traffic investigation the proper maximum speed for arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the minimum speed permitted under this chapter for an urban district.
3. Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.
4. Any alteration of maximum limits on state highways or extensions thereof in the City may not be effective until such alteration has been approved by the director of the North Dakota Department of Transportation.
5. Not more than six such alterations as hereinabove authorized shall be made per mile along a street or highway except in the case of reduced limits at intersections, and the difference between adjacent limits shall not be more than ten (10) miles per hour.

13-05-04 Speed Limitations Inapplicable to Whom - Liability of Exempt Driver for Reckless Driving

The provisions of North Dakota Century Code section 39-09-06 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The speed limitations provided for in this article do not apply to Class A authorized emergency vehicles. The exceptions provided for in this section do not protect the driver of any such vehicle from the consequences or a reckless disregard of the safety of others.

13-05-05 Minimum Speed Limits

The provisions of North Dakota Century Code section 39-09-09 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. An individual may not drive a motor vehicle at a reduced speed so as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.
2. If the director of the North Dakota Department of Transportation and the superintendent of the North Dakota Highway Patrol, acting jointly, or the City, determines on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the safe, normal, and reasonable movement of traffic, the director and superintendent or the City may determine and

declare a minimum speed limit below which an individual may not drive a vehicle except when necessary for safe operation or in compliance with law, and that limit is effective when posted upon appropriate fixed or variable signs.

13-05-06 Regulations of Speed by Traffic Signals

The City engineer or authorized person may regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof.

13-05-07 Exhibition Driving and Drag Racing - Definitions - Penalty

The provisions of North Dakota Century Code section 39-08-03.1 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No person may engage in exhibition driving of any vehicle on a highway, street, alley, sidewalk, or any public or private parking lot or area, nor may any person engage in a race, a speed competition, drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration. Any person who violates this section by engaging in an act defined by subdivision b of subsection 2 must be assessed a fine of fifty dollars (\$50.00). Any person who violates this section by engaging in an act defined by subdivision a or c of subsection 2 must be assessed a fine of one hundred dollars (\$100.00).
2. As used in this section:
 - a. "Drag race" means the operation of two or more vehicles from a point side-by-side by accelerating rapidly in a competitive attempt to cause one vehicle to out distance the other; or the operation of one or more vehicles over a common selected course from the same point to the same point for the purpose of comparing the relative speed or powers of acceleration of such vehicle or vehicles within a certain distance or time limit.
 - b. "Exhibition driving" means driving a vehicle in a manner which disturbs the peace by creating or causing unnecessary engine noise, tire squeal, skid, or slide upon acceleration or braking; or driving and executing or attempting one or a series of unnecessarily abrupt turns.
 - c. "Race" means the use of one or more vehicles in an attempt to outgain, outdistance, or to arrive at a given distance ahead of another vehicle or vehicles; or the

use of one or more vehicles to willfully prevent another vehicle from passing the facing vehicle or vehicles, or to test the physical stamina or endurance of the persons driving the vehicles over a long-distance driving route.

3. Nothing in this section shall be construed as prohibiting drag racing, exhibition driving, or similar events when carried out in an organized manner on a track or other privately owned area specifically set aside and used solely for such purposes by drivers of motor vehicles, including snowmobiles.

13-05-08 Radar Evidence in Speed Violations

The provisions of North Dakota Century Code section 39-03-15 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The speed of any motor vehicle may be checked by the use of radio microwaves or other electrical device. The results of such checks shall be accepted a prima facie evidence of the speed of such motor vehicle in any court or legal proceedings where the speed of the motor vehicle is at issue. The driver of any such motor vehicle may be arrested without a warrant under this section, provided the arresting officer is in uniform or displays the officer's badge of authority; provided that such officer has observed the record of the device, or has received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves or other electrical device.

13-05-09 Care Required in Operating Vehicle

The provisions of North Dakota Century Code section 39-09-01.1 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Any person driving a vehicle upon a highway shall drive the vehicle in a careful and prudent manner, having due regard to the traffic, surface, and width of the highway and other conditions then existing, and shall give such warnings as are reasonable necessary for safe operation under the circumstances. No person may drive any vehicle upon a highway in a manner to endanger the life, limb, or property of any person.

ARTICLE 6 - Turning Movements

13-06-01 Required Position and Method of Turning

The provisions of North Dakota Century Code Section 39-10-35 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

The driver of a vehicle intending to turn shall do so as follows:

1. Right turns. Both the approach for a right turn and a right turn must be made as close as practicable to the right-hand curb or edge of the roadway;
2. Left turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable, the left turn must be made to the left of the center of the intersection and so as to leave the intersection in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered;
3. The City may cause official traffic-control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles, and when such devices are so placed, no driver of a vehicle may turn other than as directed and required by such devices.

13-06-02 Vehicle Turning Left

The provision of North Dakota Century Code section 39-10-23 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

13-06-03 Limitations on Turning Around

The provision of North Dakota Century Code section 39-10-36 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The driver of any vehicle may not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safely and without interfering with other traffic.
2. No vehicle may be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred (500) feet.

13-06-04 Turning Movements and Required Signals

The provision of North Dakota Century Code section 39-10-38 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No person may turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety without giving an appropriate signal in the manner hereinafter provided;
2. A signal of intention to turn right or left when required must be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning;
3. No person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal; and
4. The signals required on vehicles by subsection 2 of Section 13-06-05 may not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

13-06-05 Signals by Hand and Arm or Signal Lamps

The provisions of North Dakota Century Code section 39-10-39 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Any stop or turn signal when required herein must be given either by means of the hand and arm or by signal lamps, except as otherwise provided in subsection 2.
2. Any motor vehicle in use on a highway must be equipped with, and required signals must be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four (24) inches (60.96 centimeters), or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen (14) feet (4.27 meters). The latter measurement shall apply to any single vehicle and to any combination of vehicles.

13-06-06 Methods of Giving Hand and Arm Signals

The provisions of North Dakota Century Code section 39-10-40 and all subsequent amendments are hereby incorporated by reference in this ordinance.

All signals herein required given by hand and arm must be given from the left side of the vehicle in the following manner and such signals must indicate as follows:

1. Left turn: hand and arm extended horizontally;
2. Right turn: hand and arm extended upward
3. Stop or decrease speed: hand and arm extended downward.

ARTICLE 7 - Special Stops

13-07-01 Authority to Designate Through Streets

The provision of North Dakota Century Code section 39-07-03 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The director of the North Dakota Department of Transportation with reference to state highways, and the City governing body, with reference to highways under their jurisdiction, may, by resolution, designate as through highways, any highway, street, or part thereof, and erect stop signs or yield signs at specified entrances thereto, or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to such intersection.

13-07-02 Reserved

13-07-03 Signs

All traffic control devices shall conform to state specifications.

13-07-04 Stop Signs and Yield Signs

The provisions of North Dakota Century Code sections 39-10-24 and 30-10-44 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Preferential right-of-way may be indicated by stop signs or yield signs as authorized in Section 13-07-01.
2. Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, or if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersection roadway before

entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.

3. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop sign, or, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersection roadway before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Provided, however, that if the driver is involved in a collision with a vehicle in the intersection or junction of roadways after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield the right-of-way.
4. Every stop sign and every yield sign must be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is not crosswalk, then as near as practicable to the nearest line of the intersecting roadway.
5. Except when directed to proceed by a police officer or traffic control sign, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway.
6. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at a point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

13-07-05 Emerging from Alley or Driveway

The driver of a vehicle emerging from an alley, driveway, private road or building with a business or residential district shall stop such

vehicle immediately prior to driving on to the sidewalk or on to the sidewalk area extending across such alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered when the driver has a view of approaching traffic thereon. The driver shall yield the right-of-way to any pedestrian as may be necessary to avoid collision and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway. (Source: North Dakota Century Code section 39-10-45)

13-07-06 Stop When Traffic Obstructed

The provisions of North Dakota Century Code section 39-10-68 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No driver may enter any intersection or a marked crosswalk or drive on to a railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic-control signal indication to proceed.

13-07-07 Obedience to Signal Indicating Approach of Train

The provision of North Dakota Century Code section 39-10-41 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements apply when:
 - a. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
 - b. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
 - c. A railroad train approaching within approximately one thousand three hundred twenty (1,320) feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or

- d. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
2. No person may drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. No person may drive any vehicle past any human flagman at a railroad crossing until the flagman signals that the way is clear to proceed.

ARTICLE 8 - Wireless Communications

13-08-01 Use of a wireless communications device prohibited

The provisions of North Dakota Century Code Section 39-08-23 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The operator of a motor vehicle that is part of traffic may not use a wireless communications device to compose, read, or send an electronic message.
2. Under this section:
 - a. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. The term includes electronic mail, a text message, an instant message, a command or request to access a worldwide web page, or other data that uses a commonly recognized electronic communications protocol. The term does not include:
 - (1) Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;
 - (2) Inputting, selecting, or reading information on a global positioning system device or other navigation system device;
 - (3) Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices, smartphones, citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;
 - (4) Voice or other data transmitted as a result of making a telephone or cellular phone call; or
 - (5) Data transmitted automatically by a wireless communication device without direct initiation by an individual.

b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.

3. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties.

13-08-02 Use of an electronic communication device by minor prohibited

The provisions of North Dakota Century Code Section 39-08-24 and all subsequent amendments are hereby incorporated by reference in this ordinance.

An individual at least sixteen and under eighteen years of age who has been issued a class D license may not operate an electronic communication device to talk, compose, read, or send an electronic message while operating a motor vehicle that is in motion unless the sole purpose of operating the device is to obtain emergency assistance, to prevent a crime about to be committed, or in the reasonable belief that an individual's life or safety is in danger.

ARTICLE 9 - Miscellaneous Driving Rules

13-09-01 When Traffic Obstructed

No driver may enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed. (Source: North Dakota Century Code section 39-10-68)

13-09-02 Driving Through Funeral or Other Procession

The driver of a vehicle may not drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this ordinance, except when authorized to do so by a law enforcement officer or when such vehicle is an emergency vehicle giving an audible or visible signal. (Source: North Dakota Century Code section 39-10-72 (4))

13-09-03 Funeral Processions - Traffic Regulations.

1. Notwithstanding any traffic-control device, a law enforcement officer leading a funeral procession may proceed through any intersection or make any turns or other movements necessary while leading the procession. The officer, without regard to any traffic-control device, may direct other drivers not in the funeral procession to stop, turn, proceed, or make other movements. When leading the funeral procession, the officer must be in a marked patrol vehicle and the vehicle's lighted headlamps, taillamps, and top-mounted and grill-mounted signal lamps must be displayed at all times during the procession.
2. Notwithstanding any traffic-control device or provision governing the right of way, whenever a law enforcement officer leading a funeral procession enters an intersection, the remainder of the vehicles in the funeral procession may follow through the intersection. Each vehicle in the procession, however, must exercise reasonable care toward any other vehicle or pedestrian on the roadway.
3. Notwithstanding any traffic-control device or provision governing rights of way and subject to the following conditions, vehicles in a funeral procession have the right of way.
 - a. All vehicles in a funeral procession must display lighted headlamps, taillamps, and flashing emergency lamps.
 - b. All vehicles in a funeral procession must follow the preceding vehicle in the procession as closely as is safe and practicable.
 - c. The driver of a vehicle in a funeral procession shall yield the right of way to an approaching emergency vehicle when directed to do so by a law enforcement officer or when the vehicle is giving an audible or visual signal.
 - d. A vehicle that becomes separated from the funeral procession and the law enforcement escort, so that the procession is no longer continuous, must proceed to its destination in a safe and prudent manner obeying all traffic signals and general rules of the road.
4. Other vehicles shall conform to the following rules:
 - a. The driver of a vehicle may not drive between the vehicles comprising a funeral procession while those vehicles are in motion, except when authorized to do so by a law enforcement

officer or when such vehicle is an emergency vehicle giving an audible or visible signal.

- b. The driver of a vehicle not part of a funeral procession may not join a funeral procession for the purpose of securing the right of way granted under subsection 3.
- c. The driver of a vehicle not in a funeral procession may not pass vehicles in such a procession on a two-lane highway or roadway.
- d. The driver of a vehicle may pass a funeral procession on its left side on any multiple-lane highway whenever such passing can be done safely, unless the procession is in the farthest left lane, in which case passing is permissible on the right.
- e. When a funeral procession is proceeding through a red signal as permitted by subsection 3, a vehicle that is not in the procession may not enter the intersection unless it can do so without crossing the path of the funeral procession. If the red signal changes to green while the funeral procession is still within the intersection, a vehicle facing a green signal may proceed, but the funeral procession has the right-of-way.

13-09-04 Reserved

13-09-05 When Permits Required for Parades and Processions

No funeral, procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles except the Armed Forces of the United States, the military forces of this state and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply.

13-09-06 Drive on right Side of Roadway - Exceptions

The provisions of North Dakota Century Code section 39-10-08 and all subsequent amendments are hereby incorporated by reference in this ordinance.

- 1. Upon all roadways of sufficient width, a vehicle must be driven upon the right half of the roadway, except as follows:
 - a. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

- b. When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
 - c. Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or
- 2. Upon all roadways, any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing must be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn in an intersection or into a private road or driveway.
 - 3. Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle may be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subdivision b of subsection 1 hereof. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road, or driveway.

13-09-07 Passing Vehicles Proceeding in Opposite Direction

The provisions of North Dakota Century Code section 39-10-09 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

13-09-08 Overtaking a Vehicle on the Left

The provisions of North Dakota Century Code section 39-10-11 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereinafter stated;

1. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
2. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

13-09-09 When Overtaking on the Right is Permitted

The provisions of North Dakota Century Code section 39-10-12 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
 - a. When the vehicle overtaken is making or about to make a left turn; or
 - b. Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.
2. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement may not be made by driving off the roadway.

13-09-10 Limitations on Overtaking on the Left

The provisions of North Dakota Century Code section 39-10-13 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No vehicle may be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable, and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred feet of any approaching vehicle.

13-09-11 Further Limitations on Driving on Left of Center of Roadway

The provisions of North Dakota Century Code section 39-10-14 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No vehicle shall be driven to the left side of the roadway under the following conditions:

- a. When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
 - b. When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing;
or
 - b. When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.
2. The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in 13-09-06 nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

13-09-12 No-Passing Zones

The provisions of North Dakota Century Code section 39-10-15 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The director of the North Dakota Department of Transportation and the City governing body are hereby authorized to determine those portions of any highway under their respective jurisdiction where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.
2. Where signs or markings are in place to define a no-passing zone as set forth in subsection 1, no driver shall at any time drive on the left side of the roadway with such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.

3. This section does not apply under the conditions described in Section 13-09-06 nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

13-09-13 Driving on Roadways Laned for Traffic

The provisions of North Dakota Century Code section 39-10-17 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

1. A vehicle must be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.
2. Upon a roadway which is divided into three lanes and provides for two-way traffic, a vehicle may not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center line is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.
3. Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.
4. Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

13-09-14 Following Too Closely

The provisions of North Dakota Century Code section 39-10-18 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The driver of a motor vehicle may not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.
2. The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or

motor vehicle drawing another vehicle shall, whenever conditions permit leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this does not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.

3. Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles must be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision does not apply to funeral processions.

13-09-15 Driving on Divided Highways

The provisions of North Dakota Century Code section 39-10-19 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated divided section so construed as to impede vehicular traffic, every vehicle must be driven only upon the right-hand roadway, unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicle may be driven over, across or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space at a crossover or intersection as established by public authority, unless such crossing is specifically prohibited and such prohibition is indicated by appropriate traffic-control devices.

13-09-16 Restricted Access

The provisions of North Dakota Century Code Section 39-10-20 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No person may drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

13-09-17 Closing Road Because of Hazardous Conditions - Posting of Official Traffic-Control Devices - Entering Closed Road Prohibited

The provisions of North Dakota Century Code section 39-10-21.1 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The highway patrol or local law enforcement authorities having jurisdiction over a road may close a road temporarily due to hazardous

conditions for the protection and safety of the public. If such a closing is made, the authority ordering the closing shall make every reasonable attempt to notify the public and, when practical, may post appropriate official traffic-control devices to advise motorists of the closing.

An individual, while operating a motor vehicle, may not knowingly enter a road closed which is posted with an appropriate traffic-control device at the point of entry.

13-09-18 Vehicle Entering Roadway

The provisions of North Dakota Century Code section 39-10-25 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed.

13-09-19 Vehicle Approaching or Entering Intersection

The provisions of North Dakota Century Code section 39-10-22 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. When two vehicles approach or enter an intersection not controlled by an official traffic-control device from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right. If the intersection is T-shaped and not controlled by an official traffic-control device, the driver of the vehicle on the terminating street shall yield to the vehicle on the continuing street or highway.
2. The right-of-way rule declared in this section is modified at through highways and otherwise as stated in this chapter.

13-09-20 Overtaking and Passing Schoolbus

The provisions of North Dakota Century Code section 39-10-46 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The driver of a vehicle meeting or overtaking from either direction any schoolbus stopped on the highway shall stop the vehicle before reaching the schoolbus when there is in operation on the schoolbus the flashing red lights or the stop sign on the control arm specified in North Dakota Century Code section 39-21-18, and the driver may not proceed until the schoolbus resumes motion, the driver is signaled by the schoolbus driver to proceed, or the flashing red lights and the stop sign on the control arm are no longer actuated.

2. Every schoolbus shall bear upon the front and rear thereof plainly visible signs containing the word "SCHOOLBUS" in letters not less than eight (8) inches in height. When a schoolbus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or for a school sanctioned activity, all markings thereon indicating "SCHOOLBUS" must be covered or concealed.
3. The operator of a schoolbus equipped with amber caution lights may activate those lights at a distance of not less than three hundred (300) feet nor more than five hundred (500) feet from the point where school children are to be received or discharged from the bus.
4. Every schoolbus must be equipped with a stop sign on a control arm and red visual signals meeting the requirements of North Dakota Century Code section 39-21-18, which may only be actuated by the driver of the schoolbus whenever the vehicle is stopped on the highway to receive or discharge school children.
5. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a schoolbus which is on a different roadway or when upon a controlled-access highway and the schoolbus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.
6. Every schoolbus must bear on the rear of the bus a plainly visible sign containing the words "THIS SCHOOLBUS STOPS AT ALL RAILROAD CROSSINGS".

13-09-21 Unattended Motor Vehicle

The provisions of North Dakota Century Code section 39-10-51 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No person driving or in charge of a motor vehicle may permit it to stand unattended without first stopping the engine, effectively setting the brake thereon, and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

13-09-22 Limitations on Backing

The provisions of North Dakota Century Code section 39-10-52 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The driver of a vehicle may not back the same unless such movement can be made with safety and without interfering with other traffic.
2. The driver of a vehicle may not back the same upon any shoulder or roadway of any controlled-access highway.

13-09-23 Obstruction to Driver's View or Driving Mechanism

The provisions of North Dakota Century Code section 39-10-54 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No person may drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.
2. No passenger in a vehicle may ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle.

13-09-24 Opening and Closing Vehicle Doors

The provisions of North Dakota Century Code section 39-10-54.1 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No person may open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic, nor may any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

13-09-25 Coasting Prohibited

The provisions of North Dakota Century Code section 39-10-56 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The driver of any motor vehicle when traveling upon a down grade may not coast with the gears or transmission of such vehicle in neutral.
2. The driver of a truck or bus when traveling upon a down grade may not coast with the clutch disengaged.

13-09-26 Following Fire Apparatus Prohibited

The provisions of North Dakota Century Code section 39-10-57 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The driver of any vehicle other than one on official business may not follow closer than five hundred (500) feet behind an emergency vehicle displaying the appropriate light for that vehicle in an emergency. A driver of a vehicle other than one on official business may not stop the vehicle within two hundred (200) feet of any emergency vehicle stopped in answer to a 911 emergency.

13-09-27 Crossing Fire Hose

The provisions of North Dakota Century Code section 39-10-58 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No vehicle may be driven over any unprotected hose of a fire department when laid down on any street, private road or driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command.

13-09-28 Garbage, Glass, Etc. on Highways Prohibited

The provisions of North Dakota Century Code section 39-10-59 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. An individual may not deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, rubbish, or any other litter. In addition, an individual may not deposit upon any highway any other substance likely to injure any person, animal or vehicle.
2. An individual who deposits, or permits to be deposited, upon any highway any destructive or injurious material shall immediately remove or cause to be removed the same.
3. An individual removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle.

13-09-29 Driving Through Safety Zone Prohibited

The provisions of North Dakota Century Code section 39-10-64 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No vehicle shall at any time be driven through or within a safety zone.

13-09-30 Moving Heavy Equipment at Railroad Grade Crossings

The provisions of North Dakota Century Code section 39-10-67 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No person may operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half (1/2) inch per foot of the distance between any two adjacent axles or in any event of less than nine (9) inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
2. Before making any such crossing, the person operating, or moving any such vehicle or equipment shall first stop the same not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail or such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
3. No such crossing may be made when warning is given by automatic signal or crossing gates or flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing must be under the flagman's direction.

13-09-31 Open Container Law - Penalty

The provisions of North Dakota Century Code section 39-08-18 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. A person may not drink or consume alcoholic beverages, as defined in Section 5-01-01 of the North Dakota Century Code, in or on any motor vehicle when the vehicle is upon a public highway or in an area used principally for public parking. A person may not have in that person's possession on that person's person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It is unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing alcoholic beverages which have been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle is kept

in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment must be deemed to be within the area occupied by the driver and passengers. This subsection does not prohibit the consumption or possession of alcoholic beverages in a house car, as defined in Section 13-01-01, if the consumption or possession occurs in the area of the house car used as sleeping or living quarters and that area is separated from the driving compartment by a solid partition, door, curtain or some similar means of separation; however, consumption is not authorized while the house car is in motion. Any person violating the provisions of this section must be assessed a fine of fifty dollars (\$50.00); however, the licensing authority shall not record the violation against person's driving record unless the person was the driver of the motor vehicle at the time that the violation occurred.

2. Subsection 1 does not apply to a public conveyance that has been commercially chartered for group use, any passenger for compensation in a for-hire motor vehicle, or a privately- owned motor vehicle operated by a person in the course of that person's usual employment transporting passengers at the employer's direction. This subsection does not authorize possession or consumption of an alcoholic beverage by the operator of any motor vehicle described in this subsection while upon a public highway or in an area used principally for public parking.

13-09-32 Permitting Unauthorized Minor to Drive

No person may cause or knowingly permit the person's child or ward under the age of eighteen (18) years to drive a motor vehicle upon any highway when such minor is not authorized under the laws of this state. (Source: North Dakota Century Code section 39-06-44)

13-09-33 Permitting Unauthorized Person to Drive

No person may authorize or knowingly permit a motor vehicle owned by the person or under the person's control to be driven upon any highway by any person who is not authorized under the laws of this state. (Source: North Dakota Century Code section 39-06-45)

13-09-34 Starting Parked Vehicle

No person may start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

13-09-35 Driving Upon Sidewalk

No person may drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

ARTICLE 10 - Pedestrians' Rights and Duties

13-10-01 Pedestrian Obedience to Traffic Control Devices and Traffic Regulations

The provisions of North Dakota Century Code section 39-10-27 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. A pedestrian shall obey the instructions of any official traffic control device specifically applicable to the pedestrian, unless otherwise directed by a police officer.
2. Pedestrians are subject to traffic-control and pedestrian-control signals as provided for in Section 13-04-03.

13-10-02 Pedestrians' Right-of-way in Crosswalks

The provisions of North Dakota Century Code section 39-10-28 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
2. No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.
3. Subsection 1 of this section does not apply under the conditions stated in subsection 2 of Section 13-10-03.
4. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the highway, the driver of any other vehicle approaching from the rear may not overtake and pass such stopped vehicle.
5. A violation of the provisions of this ordinance is punishable by a fine of not to exceed fifty dollars (\$50.00).

13-10-03 Crossing at other than Crosswalks

The provisions of North Dakota Century Code section 39-10-29 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.
2. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.
3. Between adjacent intersections at which traffic-control devices are in operation pedestrians may not cross at any place except in a marked crosswalk.
4. No pedestrian may cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

13-10-04 Drivers to Exercise Due Care

The provisions of North Dakota Century Code section 39-10-30 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Notwithstanding other provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused, incapacitated, or intoxicated person.

13-10-05 Pedestrians to Use Right Half of Crosswalks

The provisions of North Dakota Century Code section 39-10-32 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

13-10-06 Pedestrians on Roadways

The provisions of North Dakota Century Code section 39-10-33 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.
2. Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.
3. Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.
4. Except as otherwise provided for in this chapter, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

13-10-07 Pedestrians' Right-of-Way on Sidewalks

The provisions of North Dakota Century Code section 39-10-33.1 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The driver of a vehicle shall yield the right-of-way to any pedestrian on a sidewalk.

13-10-08 Pedestrians Yield to Authorized Emergency Vehicles

The provisions of North Dakota Century Code section 39-10-33.2 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Upon the immediate approach of an authorized emergency vehicle making use of an audible signal by bell, siren, or exhaust whistle and displaying a visible flashing revolving, or rotating blue, white or red light, every pedestrian shall yield the right-of-way to the authorized emergency vehicle.
2. This section does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.

13-10-09 Blind Pedestrians' Right-of-way

The provisions of North Dakota Century Code section 39-10-33.3 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The driver of a vehicle shall yield the right-of-way to any blind pedestrian carrying a clearly visible white cane or accompanied by an assistance dog.

13-10-10 Pedestrians Under Influence of Alcohol or Drugs

The provisions of North Dakota Century Code section 39-10-33.4 and all subsequent amendments are hereby incorporated by reference in this ordinance.

A pedestrian who is under the influence of alcohol or any drug to a degree which renders the pedestrian a hazard may not walk or be upon a roadway.

13-10-11 Bridge and Railroad Signals

The provisions of North Dakota Century Code section 39-10-33.5 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No pedestrian may pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

13-10-12 Pedestrians Soliciting Rides or Business

The provisions of North Dakota Century Code section 39-10-34 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No person may stand in a roadway for the purpose of soliciting a ride.
2. No person may stand in a roadway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.
3. No person may stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

13-10-13 Penalty

Unless otherwise specified or stated in this chapter, any person who shall violate any provisions of this article shall be subject to a fine not to exceed twenty dollars (\$20.00).

ARTICLE 11 - Regulations for Motorcycles

13-11-01 Traffic Laws Apply to Persons Operating Motorcycles or Motorized Bicycles

The provisions of North Dakota Century Code section 39-10.2-01 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Every person operating a motorcycle or motorized bicycle is granted all of the rights and is subject to all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter and except as to those provisions of these ordinances which by their nature can have no application. For purposes of this chapter, the term "motorcycle" means motorcycles and motorized bicycles.

13-11-02 Riding on Motorcycles

The provisions of North Dakota Century Code section 39-10.2-02 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator may not carry any other person nor may any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.
2. A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle.
3. No person may operate a motorcycle while carrying any package, bundle or other article which prevents the person from keeping both hands on the handlebars.
4. No operator may carry any person, nor may any person ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

13-11-03 Operating Motorcycles on Roadways Laned for Traffic

The provisions of North Dakota Century Code section 39-10.2-03 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. All motorcycles are entitled to the full use of a lane and no motor vehicle may be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection

does not apply to the operation of motorcycles two abreast in a single lane as authorized in subsection 4.

2. The operator of a motorcycle may not overtake and pass in the same lane occupied by the vehicle being overtaken.
3. No person may operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicle.
4. Motorcycles may not be operated more than two abreast in a single lane.
5. Subsections 2 and 3 do not apply to police officers in the performance of their official duties.

13-11-04 Clinging to Other Vehicles

The provisions of North Dakota Century Code section 39-10.2-04 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No person riding upon a motorcycle may attach the person's self or the motorcycle to any other vehicle on a roadway.

13-11-05 Footrests

The provisions of North Dakota Century Code section 39-10.2-05 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, must be equipped with footrests for such passenger.

13-11-06 Equipment for Motorcycle Riders

The provisions of North Dakota Century Code section 39-10.2-06 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No person under the age of eighteen years may operate or ride upon a motorcycle unless protective headgear, which complies with standards established by the North Dakota Department of Transportation, is being worn on the head of the operator and rider, except when participating in a lawful parade. If the operator of a motorcycle is required to wear protective headgear, any passenger must also wear protective headgear regardless of the age of the passenger.
2. This section does not apply to persons riding within an enclosed cab or on a golf cart.

3. No person may operate a motorcycle if a person under the age of eighteen (18) years is a passenger upon that motorcycle and is not wearing protective headgear as provided in subsection 1.

13-11-07 Other Applicable Law

The provisions of North Dakota Century Code section 39-10.2-07 and all subsequent amendments are hereby incorporated by reference in this ordinance.

All of the provisions of this chapter pertaining to the disposition of traffic offenses apply to this article.

ARTICLE 12 - Regulations for Bicycles

13-12-01 Effect of Regulations - Penalty

1. It is unlawful for any person to do any act forbidden or fail to perform any act required in this article. Any person who violates any of the provisions of this article may be assessed a fine not to exceed five dollars (\$5.00) unless otherwise provided in this chapter.
2. The parent of any child and the guardian of any ward may not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.
3. These regulations applicable to bicycles apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein. (Source: North Dakota Century Code section 39-10.1-01)

13-12-02 Traffic Ordinances Apply to Persons Riding Bicycles

Every person riding a bicycle upon a roadway is granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in this chapter and except as to those provisions of this chapter which by their nature can have no application. (Source: North Dakota Century Code section 39-10.1-02)

13-12-03 Obedience to Traffic Control Devices

1. Any person operating a bicycle shall obey the instructions of official traffic-control devices applicable to vehicles, unless otherwise directed by a police officer.

2. Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no person operating a bicycle may disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

13-12-04 Riding on Sidewalks

1. The chief of police or authorized person may erect signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person and when such signs are in place no person may disobey the same.
2. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

13-12-05 Riding on Roadways and Bicycle Paths

The provision of North Dakota Century Code section 39-10.1-05 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadways as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
2. Persons riding bicycles upon a roadway may not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.
3. Whenever a usable path for bicycle riders has been provided adjacent to a roadway, bicycle riders shall use such path and may not use the roadway.

13-12-06 Clinging to Vehicles

The provisions of North Dakota Century Code section 39-10.4-04 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle may attach the same or the person's self to any vehicle upon a roadway, except a sled being pulled by a snowmobile.

13-12-07 Carrying Articles

The provisions of North Dakota Century Code section 39-10.1-06 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No person operating a bicycle may carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.

13-12-08 Lamps and other Equipment on Bicycles

The provisions of North Dakota Century Code section 39-10.1-07 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Every bicycle when in use at nighttime must be equipped with a lamp on the front which emits a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type approved by the North Dakota Department of transportation. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.
2. Every bicycle must be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

13-12-09 Riding on Bicycles

The provisions of North Dakota Century Code section 39-10.1-03 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. A person propelling a bicycle may not ride other than upon or astride a permanent and regular seat attached thereto.
2. No bicycle may be used to carry more persons at one time than the number for which it is designed and equipped.

13-12-10 Bicycle Parking

No person may park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

13-12-11 Cycle Racing Prohibited

It shall be unlawful for any persons to run or engage in or cause to be run or be engaged in any bicycle or motorcycle race on any street, alley, highway or public place within the City, except when officially sanctioned to do so by the chief of police.

13-12-12 Point System Not Applicable

The provisions of North Dakota Century Code section 39-10.1-08 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Any violation of this article, or any moving violation as defined in Section 13-23-10, or any nonmoving violation as defined in Section 13-23-09 when committed on a bicycle as defined in Section 13-01-01, is not cause for the licensing authority to access points against the driving record of the violator pursuant to North Dakota Century Code section 39-06.1-10. Any other legally authorized penalty for a criminal traffic offense or non-criminal traffic violation is applicable to bicyclists.

13-12-13 License Required

No bicycle may be operated within the City without first obtaining a license to operate the same and the payment of the license fee.

13-12-14 License Application - Penalty

Application for a bicycle license shall be made upon a form provided by the City and shall be made to the city auditor or other authorized city official. A fee of five dollars (\$5.00) shall be paid to the City before a license is granted. Failure to pay the license fee and obtain a bicycle license subjects the owner to a penalty of ten dollars (\$10.00) or the impoundment of the bicycle, which may be held until the license fee and penalty are paid.

13-12-15 Issuance of License

1. The city auditor or other authorized city official, upon receiving proper application therefore, is authorized to issue a bicycle license which shall be a permanent license. A renewal of the license is only required if the license sticker is lost or becomes illegible.
2. The city auditor or other authorized city official shall not issue a license for any bicycle when the chief of police or authorized official knows or has reasonable grounds to believe that the applicant is not the owner of, or entitled to the possession of such bicycle.
3. The city auditor or authorized city official shall keep a record of the number of each license, the date issued, and a record of all bicycle license fees collected.

13-12-16 Attachment of License Sticker.

1. The city auditor, or other authorized city official, upon issuing a bicycle license shall also issue a license sticker bearing the license number assigned to the bicycle and the name of the city;

2. The city auditor, or other authorized city official, shall cause such license sticker to be firmly attached to the frame of the bicycle for which issued in such position as to be plainly visible; and
3. No person shall remove the license sticker from a bicycle during the period for which issued except in the event the bicycle is dismantled and no longer operated upon any street in the city.

13-12-17 Inspection of Bicycles

The city auditor, or other authorized city official, may inspect each bicycle before licensing the same and shall refuse a license for any bicycle which he determines is in an unsafe mechanical condition.

13-12-18 Renewal of License

If the license sticker is lost or becomes illegible, the license may be renewed upon application and payment of the same fee as upon an application.

13-12-19 Transfer of Ownership

Upon the sale or other transfer of a licensed bicycle, it shall be the responsibility of the purchaser to make proper application to the city auditor for change in the ownership registration. Said change in record to be made without payment of any additional fee. In all cases, the license sticker shall remain with the bicycle to which it was originally assigned.

13-12-20 Bicycle may be Impounded by Police

Any bicycle left abandoned upon the streets of the City and picked up by the city police shall be held by the police department. If the bicycle is not licensed, the owner shall purchase a license before the bicycle is returned to the owner.

ARTICLE 13 - Snowmobiles

13-13-01 Operation of Snowmobiles

For the purpose of this article, the following definitions are hereby adopted:

1. "Operate" means to ride in or on and control the operation of a snowmobile.
2. "Operator" means every person who operates or is in actual physical control of a snowmobile.

3. "Person" includes an individual, partnership, corporation, limited liability company, association, the state and its departments, agencies and political subdivisions and any body of persons, whether incorporated or not.
4. "Reasonable direct route" means the most direct or shortest route to and from a destination, which is reasonable under the circumstances.
5. "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel.
6. "Snowmobile" means a self-propelled vehicle designed for travel on snow, ice or a natural terrain and steered by skis or runners. (Source: North Dakota Century Code section 39-24-01)

13-13-02 Rules for Operation of Snowmobiles

1. No person may operate a snowmobile upon the roadway, shoulder or inside bank or slope of any road, street or highway in this City except as provided pursuant to this article. No snowmobile shall be operated at any time within the right-of-way of any interstate highway except for emergency purposes.
2. A snowmobile may make a direct crossing of a street or highway provided:
 - a. The crossing is made at an angle of approximately ninety (90) degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
 - b. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
 - c. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard; and
 - d. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.
3. No snowmobile may be operated unless it is equipped with at least one (1) headlamp, one tail lamp and brakes, all in working order, which conform to standards prescribed by rule of the director of the North Dakota Department of Transportation.
4. The emergency conditions under which a snowmobile may be operated other than as provided by this article shall be such

as to render the use of an automobile impractical under such conditions at such period of time and location.

5. It is unlawful for any person to drive or operate any snowmobile in the following ways which are declared to be unsafe and a public nuisance:
 - a. At a rate of speed greater than fifteen 15 miles per hour.
 - b. In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
 - c. While under the influence of intoxicating liquor or a drug as defined in Section 39-24.1-01 of the North Dakota Century Code, or a combination thereof.
 - d. Without a lighted headlamp and tail lamp when required for safety.
 - e. In any tree nursery or planting in a manner which damages or destroys growing stock.
 - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the snowmobile exhaust system.
 - g. Upon any private land when the private land is posted by the owner or tenant prohibiting trespassing. The name of the person posting the land must appear on each sign in legible characters. The posted signs shall be readable from the outside of the land and shall be placed conspicuously at a distance of not more than eight hundred eighty (880) yards (804.68 meters) apart, provided further that as to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes posting of all the enclosed lands.
 - h. On any city street except where necessary to go from his residence to outside the city limits and return, and then by utilizing the most reasonable, direct route;
 - i. On or within a sidewalk or boulevard except on a permanent driveway;
 - j. On grounds owned or maintained by the city, New Rockford Park District, or New Rockford Public School District.
 - k. Without a current registration number securely affixed and displayed on the vehicle so as to provide clear legibility for identification;

- l. To leave or allow a snowmobile to be or remain unattended on public property, streets, or any public grounds while the engine is running or with the keys in the ignition;
 - m. To operate or permit the operation of a snowmobile with more than two persons riding thereon in addition to the operator;
 - n. Abreast of another vehicle upon any street except when overtaking and passing another vehicle.
 - o. To authorize or permit a person under the age of sixteen to operate a snowmobile on the city streets, except as provided in section 13-21-09-06.
6. It is unlawful for any person to operate a snowmobile pursuant to Chapter 39-24 of the North Dakota Century Code without having in possession a valid driver's license or permit, except as provided by section 39-24-09.1 of the North Dakota Century Code.
 7. When snowmobiles are operated within the right-of-way of any road, street or highway of this state pursuant to this chapter, during times or conditions that warrant the use of lights, such snowmobiles shall travel in the same direction as the direction of motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the snowmobile.
 8. No snowmobile may be operated at any time within the right-of-way of any highway within this state while towing a sled, skid or other vehicle, unless the sled, skid or other vehicle is connected to the snowmobile by a hinged swivel and secure hitch.
 9. No person under the age of eighteen years may operate, ride or otherwise be propelled on a snowmobile unless the person wears a safety helmet meeting United States department of transportation standards.
 10. When a snowmobile is permitted to be operated, it shall be classified as a motor vehicle, and the operator shall obey all motor vehicle traffic regulations and requirements when applicable under this Chapter.

ARTICLE 14 - Off-Highway Vehicles

13-14-01 Definitions

As used in this article, unless the context otherwise requires:

1. "Off-highway vehicle" means any motorized vehicle not designed for use on a highway and capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. An off-highway vehicle must be classified into one of the following categories:
 - a. Class I off-highway vehicle is a vehicle that does not qualify as road capable under North Dakota Century Code chapters 39-21 and 39-27, has a seat or a saddle designed to be straddled by the operator, and has handlebars for steering control of two wheels.
 - b. Class II off-highway vehicle is fifty inches (1270.00 millimeters) or less in width, weighs one thousand two hundred pounds (544.31 kilograms) or less, and travels on three or more nonhighway tires; or is sixty-five inches (1651 millimeters) or less in width, weighs two thousand pounds (907.19 kilograms) or less, and travels on four or more nonhighway tires.
 - c. Class III off-highway vehicle weighs less than eight thousand pounds (3628.74 kilograms); travels on skis, runners, tracks, or four or more tires; has a seat; has a wheel, handlebars, or steering for steering control; and is designated for or capable of cross-country on or over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, but does not include a vehicle registered by the department under North Dakota Century Code chapter 39-04 or 39-24.
2. "Operate" means to ride in or on and control the operation of an off-highway vehicle.
3. "Operator" means an individual who operates or is in actual physical control of an off-highway vehicle.
4. "Owner" means a person, other than a lienholder, having the property in or title to an off-highway vehicle and entitled to its use or possession.
5. "Register" means the act of assigning a registration number to an off-highway vehicle.

13-14-02 Off-highway vehicle registration

Except as provided in this chapter, an individual may not operate an off-highway vehicle unless it has been registered under this chapter.

13-14-03 Rules

1. The Board of City Commissioners may adopt rules to regulate use of off-highway vehicles in areas under their jurisdiction. The governing body of a city may, by ordinance, regulate, restrict, and prohibit the use of off-highway vehicles operated in the city limits in areas under the exclusive jurisdiction of the city.

13-14-04 Operation of off-highway vehicles

1. An individual may not operate an off-highway vehicle on the roadway, shoulder, or inside bank or slope of any road, street, or highway except as provided in this chapter. Except in emergencies, an individual may not operate an off-highway vehicle within the right-of-way of any controlled-access highway. An individual may operate a registered off-highway vehicle on a gravel, dirt, or loose surface roadway. An individual may operate a registered off-highway vehicle on a paved highway designated and posted at a speed not exceeding fifty-five miles (88.51 kilometers) per hour. A licensed driver over sixteen years of age may operate a registered class III off-highway vehicle on a paved highway designated and posted at a speed not exceeding sixty-five miles (104.61 kilometers) per hour. An individual may not operate an off-highway vehicle on a paved highway if the vehicle is unable to attain a speed, on a paved level surface, of at least thirty miles (48.28 kilometers) per hour.
2. The operator of an off-highway vehicle may make a direct crossing of a street or highway only if:
 - a. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
 - b. The off-highway vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
 - c. The operator yields the right-of-way to all oncoming traffic which constitutes an immediate hazard; and
 - d. In crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway.
3. Unless an individual is operating a class I off-highway vehicle, an individual may not operate an off-highway vehicle unless it is equipped with at least one headlamp, one taillamp, and brakes, all in working order, which conform to standards prescribed by rule of the director, except when under the direct supervision of

an off-highway vehicle instructor teaching a certified off-highway vehicle safety training course, the requirement for a headlamp and taillamp may be waived.

4. The emergency conditions under which an off-highway vehicle may be operated other than as provided by this chapter are only those that render the use of an automobile impractical under the conditions and at the time and location in question.
5. An individual may not operate an off-highway vehicle in the following ways, which are declared to be unsafe and a public nuisance:
 - a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
 - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to another person or the property of another person.
 - c. While under the influence of intoxicating liquor or a controlled substance.
 - d. Without a lighted headlamp and taillamp except when used by an off-highway vehicle instructor during a certified off-highway vehicle safety training course.
 - e. In any tree nursery or planting in a manner that damages growing stock.
 - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the off-highway vehicle's exhaust system.
 - g. On any private land where the private land is posted prohibiting trespassing. The name and address of the person posting the land and the date of posting must appear on each sign in legible characters. The posted signs must be readable from outside the land and be placed conspicuously at a distance of not more than eight hundred eighty yards (804.68 meters) apart. Land entirely enclosed by a fence or other enclosure is sufficiently posted by posting of these signs at or on all gates through the fence or enclosure.
 - h. On any city street except where necessary to go from his residence to outside the city limits and return, and then by utilizing the most reasonable, direct route;

- i. On or within a sidewalk or boulevard except on a permanent driveway;
 - j. On grounds owned or maintained by the city, New Rockford Park District, or New Rockford Public School District.
6. Except as provided in section 13-22-06, an individual may not operate an off-highway vehicle without having in possession a valid driver's license or permit.
7. When an off-highway vehicle is operated within the right of way of any road, street, or highway, during times or conditions that warrant the use of lights by other motor vehicles, the off-highway vehicle must be operated in the same direction as the direction of other motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right-of-way traveled by the off-highway vehicle.
8. When an off-highway vehicle is permitted to be operated, it shall be classified as a motor vehicle, and the operator shall obey all motor vehicle traffic regulations and requirements when applicable under this Chapter.
9. An individual may not operate an off-highway vehicle within the right of way of any highway while towing a sled, skid, or other vehicle, unless the object towed is connected to the off-highway vehicle by a hinged swivel and secure hitch.
10. An individual under the age of eighteen years may not operate, ride, or otherwise be propelled on an off-highway vehicle unless the person wears a safety helmet meeting United States department of transportation standards.
11. An operator of an off-highway vehicle may not carry a passenger while operating the vehicle unless the off-highway vehicle is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer.
12. Unless otherwise provided by law, an off-highway vehicle may be operated on an aggregate road surface only when designated as part of an active off-highway vehicle trail by the managing entity.
13. A person who is performing pest control or survey work for a political subdivision may operate an all-terrain vehicle on the bottom, backslope, inside slope, and shoulder of a highway other than a controlled-access highway.

To operate an off-highway vehicle on a paved highway or gravel, dirt, or loose surface roadway under subsection 1 of section 13-22-04, the off-highway vehicle must be equipped with a mirror in compliance with North Dakota Century Code section 39-27-09, a horn in compliance with North Dakota Century Code section 39-27-15, a speedometer and odometer in compliance with North Dakota Century Code section 39-27-16, a brake light, a lighted headlamp in compliance with North Dakota Century Code section 39-27-17.1, and a motor of at least three hundred fifty cubic centimeters.

13-14-06 Operation by persons under age sixteen

Except as otherwise provided in this section, an individual under sixteen years of age who is not in possession of a valid operator's license or permit to operate an off-highway vehicle may not, except upon the lands of the individual's parent or guardian or as a participant in an organized sporting event that involves the use of off-highway vehicles, operate an off-highway vehicle. An individual at least twelve years of age may operate an off-highway vehicle if the individual has completed an off-highway vehicle safety training course prescribed by the director of the parks and recreation department and has received the appropriate off-highway vehicle safety certificate issued by the director of the department of transportation. The failure of an operator to exhibit an off-highway vehicle safety certificate on demand to any official authorized to enforce this chapter is presumptive evidence that that person does not hold a certificate. Fees collected from each individual receiving certification must be deposited in the off-highway vehicle trail tax fund for off-highway vehicle safety education and training programs.

13-14-07 Enforcement

Only peace officers of this state and their respective duly authorized representatives may enforce this chapter.

13-14-08 Penalties

Violation of subdivision b, c, or g of subsection 5 of 13-14-04 is a class B misdemeanor and are covered under State Law and not under City Ordinance. Violation of any other provision of 13-14-04 is an infraction for which a fine of twenty dollars (\$20.00) must be assessed. Violation of 13-14-02 is an infraction, for which a fine of fifty dollars (\$50.00) must be assessed. If the individual provides proof of registration since the violation, the fine may be reduced by one-half. Violation of any other provision of this article is an infraction, for which a fine of ten dollars (\$10.00) must be assessed.

ARTICLE 15 - Angle Parking

13-15-01 Angle Parking

The city engineer or other authorized city official may mark or sign streets upon which angle parking will be permitted (other than federal aid or state highways). Upon those streets which have been signed or marked for angle parking, no person may park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

13-15-02 Angle Parking - Where

Angle parking shall also be permitted on the following streets:

1. West side of 8th Street from 1st Ave North to 1st Ave South;
2. On the South side of 1st Ave North from 4th Street to 5th Street;
3. North side of Central Avenue between 8th Street and 9th Street; and
4. The South side of 1st Ave N. between 8th Street and 9th Street.

13-15-03 Close to Curb

No person may stand or park a vehicle in a street other than on the roadway and parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within twelve (12) inches of the curb or edge of the roadway except as otherwise provided in this article.

ARTICLE 16 - Stopping, Standing or Parking Prohibited in Specific Places

13-16-01 Parking Prohibited - Times

When signs are erected giving notice thereof, it shall be unlawful for any person, firm or corporation to park or leave standing either attended or unattended, any motor vehicle in or upon the streets or alleys of the City.

13-16-02 Stopping, Standing or Parking Outside of Business or Residence Districts

The provisions of North Dakota Century Code section 39-10-47 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Upon any highway outside of a business or residence district no person may stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park or so leave such vehicle off such part of said highway, but in every event

an unobstructed width of the highway of not less than twelve (12) feet opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of two hundred feet in each direction upon such highway.

2. Sections 13-14-02, 13-14-04 and 13-14-05 do not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

13-16-03 Officers Authorized to Remove Illegally Stopped Vehicles

The provisions of North Dakota Century Code section 39-10-48 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Whenever any police officer finds a vehicle standing upon a highway in violation of any of the provisions of Section 13-14-02, such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of such highway.
2. Whenever any police officer finds a vehicle unattended upon any highway, bridge or causeway, or in any tunnel where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.
3. Any police officer is hereby authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:
 - a. A report has been made that such vehicle has been stolen or taken without consent of its owner;
 - b. The person or persons in charge of such vehicle are unable to provide for its custody or removal; or
 - c. When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.

13-16-04 Stopping, Standing or Parking Prohibited in Specified Places

The provisions of North Dakota Century Code section 39-10-49 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No person may stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk;
2. In the front yard or side yard of any property within the City, except upon a driveway;
3. In front of a public or private driveway;
4. Within an intersection;
5. Within ten (10) feet of a fire hydrant;
6. On a crosswalk;
7. Within ten (10) feet of a crosswalk at an intersection;
8. Within ten (10) feet of a sidewalk that meets, intersects, or transects a roadway;
9. Within ten (10) feet of an alley apron;
10. Within fifteen (15) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
11. Between a safety zone and the adjacent curb or within fifteen (15) feet of points on the curb immediately opposite the ends of a safety zone, unless the North Dakota Department of Transportation or the City indicates a different length by signs or markings;
12. Within fifteen (15) feet of the nearest rail of a railroad crossing;
13. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted;
14. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
15. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
16. Upon any bridge or other elevated structure upon a highway or within a highway tunnel; or

17. At any place where official signs prohibit stopping.

No person shall move a vehicle not lawfully under the person's control into any such prohibited area or away from a curb such distance as is unlawful.

No semi-trailer or semi-truck or motor home or anhydrous ammonia tank trailers shall be parked on the residential streets of the City.

No truck larger than one (1) ton, or bus, up to the size of semi-truck or semi-trailer, shall park on the residential streets of the City for more than twelve (12) hours during any twenty-four (24) hour day.

13-16-05 Additional Parking Regulations

The provisions of North Dakota Century Code section 39-10-50 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Except as otherwise provided in this ordinance, every vehicle stopped or parked upon a two-way roadway must be so stopped or parked with the right-hand wheels of such vehicle parallel to and within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.
2. Except where otherwise provided by ordinance, every vehicle stopped or parked upon a one-way roadway must be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within twelve (12) inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.
3. The City governing body may permit angle parking on any roadway, except that angle parking is not permitted on any federal-aid or state highway without first obtaining the written authorization of the director of the North Dakota Department of Transportation.
4. The North Dakota Department of Transportation with respect to highways under its jurisdiction may place official traffic-control devices prohibiting or restricting the stopping, standing or parking of vehicles on any highway where in its opinion such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. No person may stop, stand or

park any vehicle in violation of the restrictions indicated by such devices.

13-16-06 Stopping - Parking - Certain Purposes Prohibited

No person may park a vehicle upon any roadway for the principal purpose of:

1. Displaying such vehicle for sale;
2. Washing, greasing or repairing such vehicle except when repairing such vehicle is necessitated by an emergency.

13-16-07 Stopping - Parking - Congested - Hazardous Places

The city engineer or other person designated by the City governing body is hereby authorized to determine and designate by proper signs, places in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

When official signs are erected at hazardous or congested places as authorized herein, no person may stop, stand or park a vehicle in any such designated place.

13-16-08 Stopping - Parking - In Alleys

No person may park a vehicle within an alley, nor shall any person stop a commercial vehicle so as to leave available less than twelve (12) feet of the width thereof for free movement of vehicular traffic, nor shall any person stop in such a position as to block the driveway entrance to any abutting property.

13-16-09 Parking Adjacent to Schools

1. The city engineer or authorized person may erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in the engineer's or other authorized person's opinion, interfere with traffic or create a hazardous situation.
2. When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person may park a vehicle in any such designated place.

13-16-10 Stopping - Parking - Over 48 Hours

It shall be unlawful for anyone to park or leave standing on any public street or highway in the City any vehicle for a period longer than forty-eight (48) hours, consecutively, provided this section shall not include any area where a shorter time is provided for parking.

13-16-11 Parking Privileges for Mobility-Impaired - Certificate - Revocation - Penalty

The provisions of North Dakota Century Code section 39-01-15 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Any mobility-impaired person who displays prominently upon an automobile parked by that person or under that person's direction and for that person's use, a distinguishing certificate or insignia for mobility-impaired persons issued by the North Dakota Department of Transportation is entitled to courtesy in the parking of the automobile. Provided, however, that the City governing body may, by ordinance, prohibit parking on any street or highway for the purpose of creating a fire lane, or to provide for the accommodation of heavy traffic during morning and afternoon rush hours, and the privileges extended to such impaired persons do not apply on streets or highways where and during such times as parking is prohibited.
2. A mobility-impaired person as used in this ordinance includes any person who uses portable oxygen; requires personal assistance or the use of crutches, a wheelchair, or a walker to walk two hundred feet without rest; is restricted by cardiac, pulmonary or vascular disease from walking two hundred feet without rest; has a forced expiratory volume of less than one liter for one second or an arterial oxygen tension of less than sixty millimeters of mercury on room air while at rest and is classified III or IV by standards for cardiac disease set by the American Heart Association; or has an orthopedic, neurological or other medical condition that makes it impossible for the person to walk two hundred feet without assistance or rest.
3. If a law enforcement officer finds that a mobility-impaired certificate or insignia is being improperly used, the officer may report to the director of the North Dakota Department of Transportation. Any person who is not mobility-impaired and who exercises the privileges granted a mobility-impaired person under subsection 1 shall be guilty of an infraction.
4. Whenever any public or private entity designates parking spaces for use by motor vehicles operated by mobility-impaired persons, those reserved spaces must be indicated by blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space. In addition to blue paint, the space reserved must be indicated by an official sign approved by the director of the North Dakota Department of Transportation. The City may enforce the provisions of this subsection in any parking lot or parking

facility that is generally open to the public, whether publicly or privately owned.

5. A person may not stop, stand or park any vehicle in any designated parking space which is reserved for the mobility-impaired unless the vehicle displays a mobility-impaired identification certificate or insignia issued by the director of the North Dakota Department of Transportation. For a violation of this subsection, there will be a fine in the amount of one hundred dollars (\$100.00).

ARTICLE 17 - Reserved Parking Areas

13-17-01 Reserved Parking Areas

No person, firm or corporation shall, when signs are erected giving notice thereof, park or leave standing, either attended or unattended, any motor vehicle on street areas which are reserved for the following temporary uses: loading and unloading, bus parking, guest parking, taxi parking, emergency parking, no parking, police or fire use.

The chief of police may establish from time to time areas for loading and unloading, bus parking, guest parking, taxi parking, emergency parking, no parking or police and fire use on such public streets in such places and in such number as the chief shall determine or as the governing body may specifically designate to be of greatest benefit and convenience to the public. These areas shall be designated by appropriate signs.

ARTICLE 18 - Time Limit Parking Zones

13-18-01 Time Limit Parking Zones

When signs are erected giving notice thereof, no person, firm or corporation shall park or leave standing, either attended or unattended any motor vehicle for more than the amount of time posted.

The city engineer or authorized person may establish time parking zones from time to time in such places as they determine, or as the governing body shall specifically designate, to promote the greatest benefit and convenience to the public and the best use of the street areas.

ARTICLE 19 - Equipment of Vehicles

13-19-01 Windshield - Must be unobstructed and equipped with wipers - Tinted windows

1. A motor vehicle must be equipped with a windshield. An individual may not drive any motor vehicle with any sign, poster, or other

nontransparent material upon the front windshield, side wings, or side or rear windows which obstructs the driver's clear view of the highway or any intersecting highway.

2. The windshield on a motor vehicle must be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which must be constructed as to be controlled or operated by the driver of the vehicle.
3. The windshield wiper upon a motor vehicle must be maintained in good working order.
4. An individual may not operate a motor vehicle with any object, material, or tinting displayed, affixed, or applied on the front windshield or any window unless the object, material, or tinting in conjunction with the windshield upon which it is displayed, affixed, or applied has a light transmittance of at least seventy percent (70%) or the object, material, or tinting in conjunction with a window other than the windshield upon which it is displayed, affixed, or applied has a light transmittance of at least fifty percent (50%). This subsection does not apply to windows behind the operator if the motor vehicle is equipped with outside mirrors on both sides that meet the requirements of section 13-17-31.

13-19-02 Child Restraint Devices - Evidence

1. If a child, under four (4) years of age, is present in any motor vehicle, that motor vehicle must be equipped with at least one (1) child restraint system for each such child. However, a child under the age of seven (7) who is at least fifty-seven (57) inches tall and who weighs at least eighty (80) pounds is not required to use a child restraint system. The child restraint system must meet the standards adopted by the United States Department of Transportation for those systems (49 CFR 571.213). While the motor vehicle is in motion, each such child must be properly secured in the child restraint system in accordance with the manufacturer's instructions. A child weighing more than forty (40) pounds may be restrained by a lap belt if the vehicle is not equipped with lap and shoulder belts or if all lap and shoulder belts are in use by other occupants. While the motor vehicle is moving, each child of seven (7) through seventeen (17) years of age who is in the motor vehicle must be in an approved child restraint system in accordance with the manufacturer's instructions or correctly buckled in a seatbelt. Use of child restraint systems and seatbelts is not required in motor vehicles that were not equipped with seatbelts when

manufactured. If a child is being transported in an emergency situation, this ordinance does not apply.

2. Violation of this ordinance is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation. (Source: North Dakota Century Code section 39-21-41.2)

13-19-03 Use of Safety Belts - Enforcement

Subject to the limitations of this ordinance and North Dakota Century Code section 39-21-41.5, a driver may not operate upon a highway a motor vehicle designed for carrying fewer than eleven (11) passengers, which was originally manufactured with safety belts unless each front seat occupant is wearing a properly adjusted and fastened safety belt. This section does not apply to a child in a child restraint or seatbelt; to drivers of implements of husbandry; to operators of farm vehicles; to rural mail carriers while on duty delivering mail; to an occupant with a medical or physically disabling condition that prevents appropriate restraint in a safety belt, if a qualified physician states in a signed writing the nature of the condition and the reason restraint is inappropriate; or when all front seat safety belts are in use by other occupants. A physician who, in good faith, provides a statement that restraint would be inappropriate is not subject to civil liability. A violation for not wearing a safety belt under this section is not, in itself, evidence of negligence. The fact of a violation of this ordinance is not admissible in any proceeding other than one charging the violation.

A peace officer may not issue a citation for a violation of this section unless the officer lawfully stopped or detained the driver of the motor vehicle for another violation. (Source: North Dakota Century Code sections 39-21-41.4 and 39-21-41.5)

13-19-04 Drawbar or Connection Between Vehicles - Precautions Required

The drawbar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, shall be of such design, strength and construction so as to prevent the unintentional uncoupling of the vehicles. (Source: North Dakota Century Code section 39-21-44.2)

13-19-05 Modification of Motor Vehicle

Except as otherwise provided in this ordinance, a person may not operate upon a public highway a motor vehicle of a type required to be registered under the laws of this state with a weight of seven thousand (7,000) pounds or less with alterations or changes from the manufacturer's original design of the suspension, steering or braking system of the motor vehicle. The weight must be computed on the basis

of the unmodified and unloaded weight of the motor vehicle, and without regard to any ballast that may be placed in the vehicle. As to bumpers, motor vehicle height and permitted modifications, the following requirements also apply:

1. The motor vehicle must be equipped with front and rear bumpers.
2. The maximum body height permitted for a motor vehicle is forty-two (42) inches. Measurement of body height is made from a level ground surface to the floor of the cargo area.
3. The maximum bumper height permitted is twenty-seven (27) inches. Measurement of bumper height is made from a level ground surface to the highest point on the bottom of the bumper.
4. The vehicle may be modified in accordance with the following:
 - a. Any modifying equipment must meet specialty equipment marketing association standards.
 - b. If tires placed on a motor vehicle have a diameter greater than that of the tires on the motor vehicle as manufactured, those tires must comply with Department of Transportation requirements.
 - c. The maximum outside diameter permitted for tires is forty-four (44) inches.
 - d. A horizontal drop bumper may be used to comply with the bumper height requirement of subsection 3. The horizontal bumper must:
 - i. Be at least three (3) inches in vertical width;
 - ii. Extend the entire horizontal body width; and
 - iii. Be horizontal, load bearing and attached to the vehicle frame to effectively transfer impact when engaged.
 - e. The maximum lift permitted in the suspension system is four (4) inches.
5. A person charged with violating this ordinance has the burden of proceeding to show that the modifications are permitted under this section.
6. Vehicles owned by law enforcement agencies, the military, firefighting agencies and ambulances may be modified without

regard to this ordinance. (Source: North Dakota Century Code section 39-21-45.1)

13-19-06 Scope and Effect of Equipment Requirements

1. It is unlawful for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which the actor knows to be in such unsafe condition as to endanger any person, or which the actor knows does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this chapter, or which the actor knows is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this ordinance. Any person who, in violation of this ordinance, drives, or any owner who causes or knowingly permits to be driven upon a highway, any vehicle or combination of vehicles which that person knows is unsafe or improperly equipped is guilty of an infraction.
2. Nothing contained in this ordinance may be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.
3. The provisions of this ordinance with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, road rollers or farm tractors except as specifically made applicable.
4. The provisions of this ordinance with respect to equipment required on vehicles do not apply to motorcycles or motor-driven cycles, except as specifically made applicable.
5. The provisions of this ordinance do not apply to vehicles moved solely by human power, except as specifically made applicable. (Source: North Dakota Century Code section 39-21-46)

13-19-07 Visibility distance and mounted height of lamps

1. Whenever requirement is hereinafter declared as to distance from which certain lamps and devices must render objects visible or within which such lamps or devices must be visible, said provisions apply during the times stated in section 13-21-01 in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.
2. Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it means from the center of such lamp

or device to the level ground upon which the vehicle stands when such vehicle is without a load.

13-19-08 Headlamps on motor vehicle

1. Every motor vehicle must be equipped with at least two (2) headlamps with at least one (1) on each side of the front of the motor vehicle, which headlamps must comply with the requirements and limitations set forth in this chapter.
2. Every headlamp upon every motor vehicle must be located at a height measured from the center of the headlamp of not more than fifty-four (54) inches (137.16 centimeters) nor less than twenty-four (24) inches (60.96 centimeters) to be measured as set forth in subsection 2 of section 13-19-07.

13-19-09 Taillamps

1. Every motor vehicle, trailer, semitrailer and pole trailer, and any other vehicle which is being drawn at the end of a train of vehicles, must be equipped with at least one (1) taillamp mounted on the rear, which, when lighted as hereinbefore required, must emit a red light plainly visible from a distance of one thousand (1,000) feet (304.8 meters) to the rear, provided that in the case of a train of vehicles only the taillamp on the rearmost vehicle need actually be seen from the distance specified. Every such above-mentioned vehicle, other than a truck tractor, registered in this state and manufactured or assembled after January 1, 1964, must be equipped with at least two (2) taillamps mounted on the rear, on the same level and as widely spaced laterally as practicable, which, when lighted as herein required, comply with the provisions of this section.
2. Every taillamp upon every vehicle must be located at a height of not more than seventy-two (72) inches (182.88 centimeters) nor less than fifteen (15) inches (38.1 centimeters).
3. Either a taillamp or a separate lamp must be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty (50) feet (15.24 meters) to the rear. Any taillamp or taillamps, together with any separate lamp for illuminating the rear registration plate, must be so wired as to be lighted whenever the headlamps or auxiliary driving lamps are lighted.

13-19-10 New motor vehicle to be equipped with reflectors

1. Every new motor vehicle hereafter sold and operated upon a highway other than a truck tractor must carry on the rear, either as a part of the taillamps or separately, two (2) or more red

reflectors, meeting the requirements of this section, except that vehicles of the type mentioned in section 13-19-14 must be equipped with reflectors as required in applicable sections.

2. Every such reflector must be mounted on the vehicle at a height not less than fifteen (15) inches (38.1 centimeters) nor more than sixty (60) inches (152.4 centimeters) measured as set forth in subsection 2 of section 13-19-07, and must be of size and characteristics and so mounted as to be visible as required in section 13-19-17.

13-19-11 Stop lamps and turn signals required on new motor vehicle

1. A person may not sell, offer for sale, or operate on the highways any motor vehicle registered in this state and manufactured or assembled after January 1, 1964, unless it is equipped with at least two (2) stop lamps that are in good working order when lighted, are mounted on the rear on the same level and as widely spaced laterally as practicable, and meet the requirements of section 13-19-23 and this section, except that a truck tractor manufactured or assembled after January 1, 1964, must be equipped with at least one stop lamp meeting the requirements of section 13-19-23.
2. A person may not sell, offer for sale, or operate on the highways any motor vehicle, trailer, or semitrailer registered in this state and manufactured or assembled after January 1, 1952, unless it is equipped with electrical turn signals in good working order which meet the requirements of section 13-19-23. This subsection does not apply to any trailer or semitrailer of less than three thousand (3,000) pounds (1360.78 kilograms) gross weight.
3. A stop lamp on a vehicle must be located at a height of not more than seventy-two (72) inches (182.88 centimeters) nor less than fifteen (15) inches (38.10 centimeters) from the ground.

13-19-12 Additional lighting equipment

1. Any motor vehicle may be equipped with one or more backup lamps either separately or in combination with other lamps, but the backup lamp or lamps may not be lighted when the vehicle is in a forward motion.
2. Any vehicle may be equipped with one (1) or more side marker lamps which may be flashed in conjunction with turn signals or vehicular hazard warning signals.

13-19-13 Application of succeeding sections

Those sections of this article which follow immediately, including sections 13-19-14, 13-19-15, 13-19-16, 13-19-17, and North Dakota Century Code 39-21-12, relating to clearance and marker lamps, reflectors, and stoplights, apply as stated in said sections to vehicles of the type therein enumerated, namely passenger buses, trucks, truck tractors, and certain trailers, semitrailers and pole trailers, respectively, when operated upon any highway, and said vehicles must be equipped as required and all lamp equipment required must be lighted at the times mentioned in section 13-21-01, except that clearance and side marker lamps need not be lighted on any said vehicle when operated within any municipality where there is sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred (500) feet (152.4 meters).

13-19-14 Additional equipment required on certain vehicles

In addition to other equipment required in this chapter, the following vehicles must be equipped as herein stated under the conditions stated in section 13-19-13:

1. On every bus, truck, trailer, or semitrailer there must be the following:
 - a. On the rear, two (2) reflectors, one (1) at each side, and one stoplight.
 - b. A trailer or semitrailer which is not so loaded or of such dimensions as to obscure the stoplight on the towing vehicle, need not be equipped with a stoplight.
2. On every bus, truck, trailer, or semitrailer eighty (80) inches (203.2 centimeters) or more in overall width there must be the following:
 - a. On the rear, two (2) reflectors, one (1) at each side, two (2) clearance lamps, one (1) at each side, and one (1) stoplight.
 - b. On the front, two (2) clearance lamps, one (1) at each side.
3. On every truck tractor, there must be the following:
 - a. On the front, two (2) clearance lamps, one (1) at each side.
 - b. On the rear, one (1) stoplight.
4. On every pole trailer, there must be the following:
 - a. On the rear of the pole trailer or load, two (2) reflectors, one (1) at each side.

- b. In addition, on pole trailers exceeding three thousand (3,000) pounds (1360.78 kilograms) gross weight, there must be on each side one (1) side marker lamp and one (1) clearance lamp which may be in combination, to show to the front, side, and rear.

13-19-15 Color of clearance lamps, side marker lamps, backup lamps, and reflectors

1. Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle must display or reflect an amber color.
2. Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle must display or reflect a red color.
3. All lighting devices and reflectors mounted on the rear of any vehicle must display or reflect a red color, except that the light illuminating the license plate must be white and the light emitted by a backup lamp must be white or amber.
4. Any person who violates this ordinance must be assessed a fee of ten dollars (\$10.00) for each offense.

13-19-16 Mounting of reflectors, clearance lamps, and side marker lamps

1. Reflectors when required by section 13-19-14 and 13-19-15 must be mounted at a height not less than fifteen (15) inches (38.1 centimeters) and not higher than sixty (60) inches (152.4 centimeters) above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than fifteen (15) inches (38.1 centimeters) the reflector must be mounted as high as that part of the permanent structure will permit. The rear reflectors on a pole trailer may be mounted on each side of the bolster or load. Any required red reflector on the rear of a vehicle may be incorporated with the taillamp but must meet all the other reflector requirements of this chapter.
2. Clearance lamps must be mounted on the permanent structure of the vehicle in such a manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both.

13-19-17 Visibility of reflectors, clearance lamps, and marker lamps

1. Every reflector upon any vehicle referred to in section 13-19-14 and 13-19-15 must be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within six hundred (600) feet (182.88 meters) to one hundred (100) feet (30.48 meters) from the vehicle when directly in front of lawful lower beams of headlamps, except that the visibility for reflectors on vehicles manufactured or assembled prior to January 1, 1970, must be measured in front of lawful upper beams of headlamps. Reflectors required to be mounted on the sides of the vehicle must reflect the required color of light to the sides, and those mounted on the rear must reflect a red color to the rear.
2. Front and rear clearance lamps must be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of five hundred (500) feet (152.4 meters) from the front and rear, respectively, of the vehicle.
3. Side marker lamps must be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of five hundred (500) feet (152.4 meters) from the side of the vehicle on which mounted.

13-19-18 Lamp or flag on projecting load

Whenever the load upon any vehicle extends to the rear four (4) feet (121.92 centimeters) or more beyond the bed or body of the vehicle there must be displayed at the extreme rear end of the load, at the times specified in section 13-21-01, a red light or lantern plainly visible from a distance of at least six hundred (600) feet (182.88 meters) to the sides and rear. The red light or lantern required under this section must be in addition to the red rear light required upon every vehicle. At any other time there must be displayed at the extreme rear end of a load a red flag or cloth not less than twelve (12) inches (30.48 centimeters) square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

13-19-19 Lamps on parked vehicle

1. Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of one thousand (1,000) feet (304.8 meters) upon such street or highway, no lights need be displayed.
2. Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise

and there is not sufficient light to reveal any person or object within a distance of one thousand (1,000) feet (304.8 meters) upon such highway, the vehicle must be equipped with at least one (1) lamp displaying a white or amber light visible from a distance of one thousand (1,000) feet (304.8 meters) to the front of the vehicle. The same lamp or at least one (1) other lamp must display a red light visible from a distance of one thousand (1,000) feet (304.8 meters) to the rear of the vehicle, and the location of the lamp or lamps must always be such that at least one (1) lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. Local authorities may provide by ordinance that no lights need be displayed upon any motor vehicle when parked upon a highway where the speed limit in effect does not exceed thirty (30) miles (48.28 kilometers) per hour in accordance with local ordinances or where there is sufficient light to reveal any person within a distance of two hundred (200) feet (60.96 meters) upon such highway.

3. Any lighted headlamps upon a parked vehicle must be depressed or dimmed.

13-19-20 Lamps, reflectors, and reflective materials on farm tractors, farm equipment, and implements of husbandry

Every farm tractor, self-propelled unit of farm equipment, or towed implement of husbandry, manufactured or assembled after January 1, 1980, must at all times, and every farm tractor, self-propelled unit of farm equipment, or towed implement of husbandry must, when operated upon the highways of this state during the times mentioned in section 13-21-01, be equipped as follows:

1. Tractors and self-propelled units of farm equipment must be equipped with two (2) single-beam or multiple-beam headlamps meeting the requirements of North Dakota Century Code section 39-21-20 or 39-21-22; provided, that a tractor or self-propelled unit of farm equipment which is not equipped with an electrical system must be equipped with at least one (1) lamp displaying a white light visible when lighted from a distance of not less than one thousand (1,000) feet (304.8 meters) to the front of the vehicle. Every tractor and self-propelled unit of farm equipment must be equipped with at least one (1) lamp displaying a red light visible when lighted from a distance of one thousand (1,000) feet (304.8 meters) to the rear of the vehicle. In addition, every tractor and every self-propelled unit of farm equipment must be equipped with two (2) red reflectors visible from all distances from six hundred (600) feet (182.88 meters) to one hundred (100) feet (30.48 meters) to the rear when directly in front of lawful lower beams of headlamps.

2. Every towed unit of farm equipment or implement of husbandry must be equipped with at least one (1) lamp displaying a red light visible when lighted from a distance of one thousand (1,000) feet (304.8 meters) to the rear or two (2) red reflectors visible from all distances within six hundred (600) feet (182.88 meters) to one hundred (100) feet (30.48 meters) to the rear when directly in front of lawful lower beams of headlamps. In addition, if the extreme left projection of a towed unit of farm equipment or implement of husbandry extends beyond the extreme left projection of the towing tractor or vehicle, the unit or implement must be equipped with at least one (1) amber lamp or reflector mounted to indicate as nearly as practicable the extreme left projection and visible from all distances within six hundred (600) feet (182.88 meters) to one hundred (100) feet (30.48 meters) to the front when illuminated by the lower beams of headlamps and at least one (1) red lamp reflector so mounted and visible from the same distances to the rear.

The lamps and reflectors required by this section must be so positioned as to show from front and rear as nearly as practicable the extreme projection of the vehicle carrying them on the side of the roadway used in passing the vehicle. If a farm tractor or a unit of farm equipment, whether self-propelled or towed, is equipped with two (2) or more lamps or reflectors visible from the front or two (2) or more lamps or reflectors visible from the rear, the lamps or reflectors must be so positioned that the extreme projections both to the left and to the right of the vehicle must be indicated as nearly as is practicable. If all other requirements are met, reflective tape or paint may be used in lieu of the reflectors required in subsection 2.

13-19-21 Lamps on other vehicles and equipment

Every vehicle, including animal-drawn vehicles and vehicles referred to in subsection 4 of North Dakota Century Code section 39-21-46, not specifically required by the provisions of this chapter to be equipped with lamps or other lighting devices, must at all times specified in section 13-21-01 be equipped with at least one (1) lamp displaying a white light visible from a distance of not less than one thousand (1,000) feet (304.8 meters) to the front of the vehicle, and must also be equipped with two (2) lamps displaying red light visible from a distance of not less than one thousand (1,000) feet (304.8 meters) to the rear of the vehicle, or two (2) red reflectors visible for distances of one hundred (100) feet (30.48 meters) to six hundred (600) feet (182.88 meters) to the rear when illuminated by the lower beams of headlamps.

13-19-22 Spot lamps and auxiliary lamps

1. Spot lamps. Any motor vehicle may be equipped with not to exceed two (2) spot lamps and every lighted spot lamp must be so aimed and used so that no part of the high-intensity portion will strike

the windshield, or any windows, mirror, or occupant of another vehicle in use.

2. Fog lamps. Any motor vehicle may be equipped with not to exceed two (2) fog lamps mounted on the front at a height not less than twelve (12) inches (30.48 centimeters) nor more than thirty (30) inches (76.2 centimeters) above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high-intensity portion of the light to the left of the center of the vehicle shall at a distance of twenty-five (25) feet (7.62 meters) ahead project higher than a level of four (4) inches (10.76 centimeters) below the level of the center of the lamp from which it comes. Lighted fog lamps meeting the above requirements may be used with lower headlamp beams as specified in subsection 2 of North Dakota Century Code section 39-21-20.
3. Auxiliary passing lamps. Any motor vehicle may be equipped with not to exceed two (2) auxiliary passing lamps mounted on the front at a height not less than twenty-four (24) inches (60.96 centimeters) nor more than forty-two (42) inches (106.68 centimeters) above the level surface upon which the vehicle stands. The provisions of North Dakota Century Code section 39-21-20 apply to any combination of headlamps and auxiliary passing lamps.
4. Auxiliary driving lamps. Any motor vehicle may be equipped with not to exceed two (2) auxiliary driving lamps. Any auxiliary driving lamp mounted at a height of less than sixteen (16) inches (40.64 centimeters) or more than forty-two (42) inches (106.68 centimeters) above the level surface upon which the vehicle stands may not be lighted when the vehicle is used upon a highway. The provisions of North Dakota Century Code section 39-21-20 apply to any combination of headlamps and auxiliary driving lamps.

13-19-23 Signal lamps and signal devices

1. Any motor vehicle may be equipped and when required under this chapter must be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red light visible from a distance of not less than three hundred (300) feet (91.44 meters) to the rear in normal sunlight, and which shall be actuated upon application of the service (foot) brake, and which may, but need not, be incorporated with one (1) or more other rear lamps.
2. Any motor vehicle may be equipped and when required under this chapter must be equipped with lamps showing to the front and rear for the purpose of indicating an intention to turn either to the right or left. The lamps showing to the front must be located on the same level and as widely spaced laterally as practicable and when in use display a white or amber light, or any shade of color

between white and amber, visible from a distance of not less than three hundred (300) feet (91.44 meters) to the front in normal sunlight, and the lamps showing to the rear must be located at the same level and as widely spaced laterally as practicable and when in use display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than three (300) hundred feet (91.44 meters) to the rear in normal sunlight. Any motor vehicle or combination of vehicles eighty (80) inches (20.32 decimeters) or more in overall width, and manufactured or assembled after January 1964, must be equipped with the lamps required by this subsection mounted and spaced in the same manner but visible from a distance of not less than five hundred (500) feet (152.4 meters) to the front and rear in normal sunlight. When actuated the lamps must indicate the intended direction of turning by flashing the lights showing to the front and rear on the side toward which the turn is made. Turn signal lamps may, but need not, be incorporated in other lamps on the vehicle.

3. No stop lamp or signal lamp may project a glaring light.

13-19-24 Use of multiple-beam road-lighting equipment

Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in section 13-21-01, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

1. Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred (500) feet (152.4 meters), such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in subsection 2 of North Dakota Century Code section 39-21-20 must be deemed to avoid glare at all times, regardless of road contour and loading.
2. Whenever the driver of a vehicle follows another vehicle within three hundred (300) feet (91.44 meters) to the rear, the driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in subsection 1 of North Dakota Century Code section 39-21-20.

13-19-25 Number of driving lamps required or permitted

1. At all times specified in section 13-21-01 at least two (2) lighted lamps must be displayed, one on each side at the front of

every motor vehicle, except when a vehicle is parked subject to the regulations governing lights on parked vehicles.

2. Whenever a motor vehicle equipped with headlamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than three hundred (300) candlepower, not more than a total of four (4) of any such lamps on the front of a vehicle may be lighted at any one (1) time when upon a highway.

13-19-26 Brake equipment required

1. Every motor vehicle, other than a motorcycle or motor-driven cycle, when operated upon a highway must be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two (2) separate means of applying the brakes, each of which means must be effective to apply the brakes to at least two wheels. If these two (2) separate means of applying the brakes are connected in any way, they must be so constructed that failure of any one part of the operating mechanism does not leave the motor vehicle without brakes on at least two (2) wheels.
2. Every farm tractor, motorcycle, and motor-driven cycle, when operated upon a highway, must be equipped with at least one (1) brake, which may be operated by hand or foot.
3. Every trailer or semitrailer when operated upon a highway at a speed in excess of twenty-five (25) miles (40.23 kilometers) per hour must be equipped with safety chains or brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and said brakes must be so designed and connected that in case of an accidental breakaway of the towed vehicle the brakes are automatically applied.
4. One of the means of brake operation must be parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice, or loose material. The parking brakes must be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power-assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes must be so designed that when once applied they remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe

actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes.

13-19-27 Maintenance of brakes.

All brakes must be maintained in good working order and must be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

13-19-28 Hydraulic brake fluid.

1. The term "hydraulic brake fluid", as used in this section, means the liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle.
2. Hydraulic brake fluid must be distributed and serviced with due regard for the safety of the occupants of the vehicle and the public.
3. No person may distribute, have for sale, offer for sale, sell, or service any vehicle with any hydraulic brake fluid unless it has been approved by the department under the procedures set forth in North Dakota Century Code section 39-21-30.

13-19-29 Horn and warning device

1. While being operated upon a highway, every motor vehicle must be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred (200) feet (60.96 meters), but no horn or other warning device may emit an unreasonably loud or harsh sound or a whistle. Whenever reasonably necessary for safe operation, the driver of a motor vehicle upon a highway shall give audible warning with the vehicle's horn, but may not otherwise use the vehicle's horn while upon a highway.
2. No vehicle may be equipped with nor may any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section.
3. Any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.
4. Any authorized emergency vehicle may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred (500) feet (152.4 meters) and of a type approved by the department, but the siren may not be used except when the vehicle is operated in

response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which events the driver of the vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of approaching vehicles.

13-19-30 Muffler - Prevention of noise and smoke

1. Every motor vehicle must at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person may use a muffler cutout, bypass, or similar device upon a motor vehicle on a highway.
2. The engine and power mechanism of every motor vehicle must be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

13-19-31 Mirror

On and after January 1, 1964, every motor vehicle, operated singly or when towing any other vehicle, must be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred (200) feet (60.96 meters) to the rear of such motor vehicle.

13-19-32 Safety belts

1. Every passenger car manufactured or assembled after January 1, 1965, must be equipped with lap belt assemblies for use in the driver's and one other front seating position.
2. All motor vehicles manufactured after January 1, 1968, must be equipped with any lap belt or shoulder belt required at the time the vehicle was manufactured by standards of the United States department of transportation. Nothing in this subsection affects the requirement in subsection 1 for a lap belt in the driver's seating position.
3. The department may except specified types of motor vehicles or seating positions within any motor vehicle from the requirements imposed by subsections 1 and 2 when compliance would be impractical.
4. No person may install, distribute, have for sale, offer for sale, or sell any belt for use in motor vehicles unless it meets current minimum standards and specifications of the United States department of transportation.

5. Every owner shall maintain belts and assemblies required by this section in proper condition and in a manner that will enable occupants to use them.

13-19-33 Restrictions as to Tire Equipment

1. Every solid rubber tire on a vehicle must have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.
2. No person may operate or move on any highway any motor vehicle, trailer, or semitrailer having any metal tire in contact with the roadway.
3. No tire on a vehicle moved on a highway may have on its periphery any block, stud, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it is permissible to use farm machinery with tires having protuberances which will not injure the highway, and except also that it is permissible to use tire chains of reasonable proportions. It is also permissible to use, from October fifteenth (15th) to April fifteenth (15th), pneumatic tires which have metal studs which do not project more than one-sixteenth (1/16th) of an inch beyond the tread of the traction surface of the tire, except that it is permissible to use such tires on school buses at any time during the year.

13-19-34 Vehicle to be constructed to prevent sifting or leaking loads

No vehicle may be driven or moved on any highway unless it is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway. No person may operate on any highway any vehicle with any load unless the load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

13-19-35 Slow-moving vehicles required to display identification emblem

All implements of husbandry, as defined in North Dakota Century Code section 39-01-01, and machinery, including all road construction machinery, designed for operation at a speed of twenty-five (25) miles (40.23 kilometers) an hour or less, must display either a triangular slow-moving vehicle emblem or a rotating or flashing amber light, as authorized for class B emergency vehicles, whenever traveling along a highway. The emblem or light must be mounted so as to be visible from a distance of not less than five hundred (500) feet (152.4 meters) to the

rear. The director shall adopt standards and specifications for the design and position of mounting the slow-moving vehicle emblem and light. The standards and specifications for slow-moving vehicle emblems referred to in this section must correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers. No vehicle, other than those specified in this section, must display a slow-moving vehicle emblem, and its use on any type of stationary object is prohibited.

ARTICLE 20 - Motorcycle Equipment

13-20-01 Purpose

The provisions of North Dakota Century Code chapter 39-27 and all subsequent amendments are hereby incorporated by reference in this ordinance.

It is the purpose of this article to establish performance and equipment requirements for the manufacture, sale and safe operation of a motorcycle upon public highways, and to furnish administrators with a guide for registration eligibility and continued conformity as related to motorcycles. (Source: North Dakota Century Code section 39-27-01)

13-20-02 Manufacturer's or Distributor's Certification

1. The manufacturer or distributor shall provide a certification of the fact that a motorcycle or class of motorcycles is designed and manufactured for use upon public highways and complies with the performance and equipment requirements of this chapter, and the rules and regulations promulgated hereunder.
2. The certificate must be incorporated on the manufacturer's statement of origin (MSO) upon transfer of vehicle ownership. (Source: North Dakota Century Code section 39-27-02)

13-20-03 Frame-Chassis Requirements

1. The motorcycle frame-chassis, including the suspension components and engine mountings, must be of substantial construction, capable of supporting the combined weight of all vehicle components and riders for which the vehicle is designed, and withstand normal road shocks and operational stresses without constituting a hazard to the riders or other users of the highway.
2. The wheelbase may not be less than forty (40) inches. (Source: North Dakota Century Code section 39-27-03)

13-20-04 Brakes

1. Every motorcycle must have either a split service brake system or two (2) independently actuated service brake systems in accordance with rules adopted by the director of the North Dakota Department of Transportation. Brakes must act on the front and rear wheels.
2. Every motorcycle must meet the requirements for brake system effectiveness, fade and partial systems as specified in rules adopted by the director of the North Dakota Department of Transportation.
3. All linkage, cables, pivots and bearings must be free of excess (high) friction, with the front wheel brake cable so located and secured as not to become pinched between fork and frame members when wheel is turned completely to the right or left.
4. Brake actuating devices must be in an accessible location, unencumbered by vehicle components, and so positioned that adequate leverage and safe operation is ensured. Service brake system controls and operation requirements must be in accordance with rules adopted by the director of the North Dakota Department of Transportation. A suitable mechanism shall be provided for the purpose of automatically returning the actuating devices to normal position upon release.
5. Motorcycle brakes must be capable of being adjusted automatically or manually with means provided to prevent unintentional adjustment.
6. Each three-wheel motorcycle must be equipped with a parking brake of a friction type with a solely mechanical means to retain engagement. (Source: North Dakota Century Code section 39-27-04)

13-20-05 Brakes on Motor-Driven Cycles

The City may require an inspection of the brake on any motor-driven cycle and may disapprove any brake which is not so designed or constructed as to ensure reasonable and reliable performance in actual use. (Source: North Dakota Century Code section 39-27-04.1)

13-20-06 Tires, Wheels and Rims

1. Motorcycle tires must be of pneumatic design with a minimum width of two and twenty-five hundredths (2 25/100) inches designed for highway use.
2. Tires on two-wheel motorcycles and the front tire on a three-wheel motorcycle must have a load capacity rating at least equal to their respective gross axle weight ratings (GAWR).

Each tire on the rear axle of a three-wheel motorcycle must have a load capacity rating at least equal to one-half (1/2) the rear axle gross axle weight rating (GAWR).

3. Wheel rim diameters may not be less than ten (10) inches (25.4 centimeters) and shall otherwise comply with applicable state standards, as promulgated by the registrar of motor vehicles. Two-wheel motorcycles using low pressure tires are exempt from this subsection, if the inflated height of the tire is twenty (20) inches or greater. (Source: North Dakota Century Code section 39-27-05)

13-20-07 Steering and Suspension Systems

1. Motorcycle steering and suspension systems must be designed and engineered to provide the operator with the means of safely controlling vehicle direction under all maneuvers required for normal and safe operation.
2. The rear wheel of a two-wheel motorcycle must track behind a front wheel within one (1) inch with both wheels in a vertical plane when the vehicle is operating on a straight course. On a three-wheel motorcycle, the two wheels mounted on the rear axle must have a wheel track distance no less than thirty (30) inches and the mid-point of the rear wheel track distance shall be within one (1) inch of the front wheel track when the vehicle is proceeding on a straight course. The vehicle must be equipped with an adjustment feature that will provide proper wheel tracking.
3. The steering head must be provided with a bearing or similar device that will allow the steering shaft to turn freely in rotational motion only.
4. All motorcycles, except three-wheel motorcycles, must meet the following specifications in relationship to front wheel geometry:

Maximum Rake: 45 degrees - Trail: 14 inches positive

Minimum Rake: 20 degrees - Trail: 2 inches positive

Manufacturer's specifications must include the specific rake and trail for each motorcycle or class of motorcycles and the terms "rake" and "trail" must be defined by rules adopted by the director of the North Dakota Department of Transportation.

5. Handlebars must be of sturdy construction, adequate in size to provide proper leverage for steering and capable of withstanding a minimum force of one hundred (100) pounds applied to each handgrip in any direction. Handlebar grips

may not be located above the shoulder height of the seated operator and must be capable of vertical adjustment. The handlebars must provide a minimum of eighteen (18) inches between grip after final assembly.

6. Handlebars must be equipped with handgrips consisting of a material and surface pattern to ensure firm, non-slip gripping for the driver.
7. Every motorcycle must be equipped with a suspension system and such suspension system must be applicable to at least the front wheel. The suspension system must be effective in reducing road shock and designed for the purpose of maximizing vehicle stability. (Source: North Dakota Century Code section 39-27-06)

13-20-08 Fuel Systems

1. All fuel system components, including the tank, pump, tubing, hoses, clamps, etc. must be securely fastened to the motorcycle so as not to interfere with vehicle operation and be leak proof when the vehicle is in its normal operating attitude.
2. Fuel lines must be positioned in a manner to prevent their contact with the engine head, manifold, exhaust system or other high temperature surfaces or moving components. The fuel system must be adequately vented and provided with a fuel shutoff valve located between the fuel supply and the engine. (Source: North Dakota Century Code section 39-27-07)

13-20-09 Exhaust Systems - Prevention of Noise

Motorcycles must be equipped with an exhaust system incorporating a muffler or other mechanical device for the purpose of effectively reducing engine noise. Cutouts and bypasses in the exhaust system are prohibited. The system must be leak proof and all components must be securely attached to the vehicle and located so as not to interfere with the operation of the motorcycle. Shielding must be provided to prevent inadvertent contact with the exhaust system by the operator or passenger during normal operation. In addition, all motorcycles operating on streets and highways must meet the noise decibel limitations as established by the Environmental Protection Agency. No person may sell, offer for sale or install any noise suppressing system or device which will produce noise in excess of the maximum allowable decibel limitations of this section. (Source: North Dakota Century Code section 39-27-08)

13-20-10 Mirrors

Every motorcycle must be equipped with at least one mirror of unit magnification, securely affixed to the handlebar and capable of

adjustment within a range that will reflect an image that includes at least the horizon and the road surface to the rear of the motorcycle. Such mirror must consist of a minimum reflective surface of ten (10) square inches (64.52 square centimeters). All mirrors shall not contain sharp edges or projections capable of producing injury. (Source: North Dakota Century Code section 39-27-09)

13-20-11 Fenders

Each wheel of a motorcycle must be equipped with fenders or otherwise covered by the body configuration. Fenders must be securely mounted and of sufficient size and strength to minimize water or other road surface substances from coming in contact with the vehicle riders, or throwing the road substances unreasonably to the rear of the vehicle. Fender design must be effective in reducing side spray. (Source: North Dakota Century Code section 39-27-10)

13-20-12 Seat or Saddle

A seat or saddle securely attached to the vehicle must be provided for the use of the operator. The seat or saddle may not be less than twenty-five (25) inches (63.5 centimeters) above a level road surface when measured to the lowest point on top of the seat or saddle cushion with the operator seated in a driving position. The seat or saddle adjustment locking device must prevent relative movement of the seat from its selected and secured position under all normal vehicle operating conditions. (Source: North Dakota Century Code section 39-27-11)

13-20-13 Chain Guard

Any drive chain on a motorcycle must be equipped with a chain guard or covering device to prevent chain or chain sprocket contact with any rider. (Source: North Dakota Century Code section 39-27-12)

13-20-14 Vehicle Stand

All motorcycles designed with two wheels must be equipped with a retracting vehicle stand to permit the vehicle to remain in an upright stored position without outside assistance. The stand may be of a side or center type, and shall be of substantial construction to hold the vehicle so equipped. (Source: North Dakota Century Code section 39-27-13)

13-20-15 Glazing

When equipped, all motorcycle windscreens and windshields must meet the following standards:

1. The glazing material must comply with the standards promulgated by rule of the director of the North Dakota Department of Transportation.

2. The metal support must be of a material which shall bend rather than fragment under impact.
3. Covering material, other than glazing, must be beaded at the edges to prevent fraying. (Source: North Dakota Century Code section 39-27-14)

13-20-16 Horn

Every motorcycle must be equipped with an operative horn in good working order as described by Subsection 1 of Section 39-21-36 of the North Dakota Century Code. The horn shall operate from a control device located on the left handlebar. (Source: North Dakota Century Code section 39-27-15)

13-20-17 Speedometer and Odometer

Every motorcycle must be equipped with a properly operating speedometer and odometer calibrated in miles (kilometers) per hour and miles (kilometers) respectively and must be fully illuminated when the headlamp is activated. (Source: North Dakota Century Code section 39-27-16)

13-20-18 Lighting Equipment

1. A motorcycle must be equipped with lamps, reflective devices and associated equipment as required by and in compliance with standards adopted by the director of the North Dakota Department of Transportation.
2. A gearbox indicator light, if provided, must be located within the operator's field of vision.
3. A headlamp beam indicator light must be located within the operator's field of vision and illuminated automatically when the high beam of the headlamp is actuated.
4. A motorcycle must be equipped with at least one (1) taillamp in accordance with North Dakota Century Code section 39-21-04.
5. A motorcycle must be equipped with a stop lamp in accordance with subsection 1 of North Dakota Century Code section 39-21-19. (Source: North Dakota Century Code section 39-27-17)

13-20-19 Lighting Equipment on Motor-Driven Cycles

The headlamp or headlamps upon every motor-driven cycle must be of the single-beam or multiple-beam type but in either event must comply with the requirements and limitations as follows:

1. Every headlamp or headlamps on a motor-driven cycle must be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred (100) feet when the motor-driven cycle is operated at any speed less than twenty-five (25) miles per hour and at a distance of not less than two hundred (200) feet when the motor-driven cycle is operated at a speed of twenty-five (25) or more miles (40.23 or more kilometers) per hour and at a distance of not less than three hundred (300) feet when the motor-driven cycle is operated at a speed of thirty-five (35) miles per hour.
2. In the event the motor-driven cycle is equipped with a multiple-beam headlamp or headlamps the upper beam may not exceed the limitations set forth in Subsection 1 of Section 39-21-20 of the North Dakota Century Code, and the lowermost beam shall meet the requirements applicable to the lowermost distribution of light as set forth in Subsection 2 of Section 39-21-20 of the North Dakota Century Code.
3. In the event the motor-driven cycle is equipped with a single-beam lamp or lamps the lamp or lamps must be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of twenty-five (25) feet ahead, projects higher than the level of the center of the lamp from which it comes. (Source: North Dakota Century Code section 39-27-17.1)

13-20-20 Passenger Seat

Motorcycles designed to carry more than one (1) person must be equipped with a securely mounted seat for each passenger located to the side or rear of the driver such that the passenger seat does not interfere with the driver's control or operation of the vehicle. In the case of a two-wheel vehicle, the passenger seat must be located on the longitudinal centerline of the motorcycle. (Source: North Dakota Century Code section 39-27-18)

13-20-21 Footrests

Footrests must be provided for each designated seating position. Each footrest for a passenger must be so designated and constructed to support a static weight of two hundred fifty (250) pounds applied at the center of the foot pedal. Footrests must be so located to provide reasonable accessibility for the passenger's feet. Footrests must fold rearward or upward when not in use if the footrest protrudes beyond the width of the handlebars. (Source: North Dakota Century Code section 39-27-20)

13-20-22 Highway Bars

If a motorcycle is so equipped, highway bars must have a maximum width of twenty-six (26) inches; shall be located less than fifteen (15)

inches from the foot controls and may not interfere with the operation of the foot controls. (Source: North Dakota Century Code section 39-27-21)

13-20-23 Equipment Approval

All motorcycle lighting devices, electrical systems, brake components, glazing materials and exhaust systems, incorporating a muffler or other mechanical exhaust device, required or optional, must be approved by the North Dakota Department of Transportation before they will be available for use within the state. (Source: North Dakota Century Code section 39-27-22)

ARTICLE 21 - Lighted Lamps Required

13-21-01 When Lighted Lamps are Required

Subject to exceptions with respect to parked vehicles, every vehicle upon a highway must display lighted lamps and illuminating devices as required in this chapter for different classes of vehicles as follows:

1. At any time from sunset to sunrise, and every farm tractor upon a highway at any time from a half hour after sunset to a half hour before sunrise;
2. At any time when it is raining, snowing, sleet or hailing or during other adverse driving conditions and these conditions do not render a person or vehicle on the highway clearly discernible at a distance of one thousand (1000) feet ahead; or
3. At any other time when visibility is impaired by weather, smoke, fog or other conditions or when there is insufficient light to render a person or vehicle on the highway clearly discernible at a distance of one thousand (1000) feet ahead.

Stoplights, turn signals and other signaling devices must be lighted as prescribed for the use of such devices. (Source: North Dakota Century Code section 39-21-01)

ARTICLE 22 - Regulating the Kinds and Classes of Traffic on Certain Roads

13-22-01 Load Restrictions Upon Vehicles Using Certain Roadways

When signs are erected giving notice thereof, no person may operate any vehicle with a gross weight in excess of the maximum indicated weight at any time upon any street or part of a street so designated.

13-22-02 Commercial Vehicles Prohibited from Using Certain Streets

When signs are erected giving notice thereof, no person may operate any commercial vehicle exceeding the maximum indicated gross weight at any time upon any street or part of a street so designated except that such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise and then only by entering such street at the intersection nearest the designation of the vehicle and proceeding thereon no farther than the nearest intersection thereafter.

13-22-03 Size Restrictions Upon Vehicles Using Certain Highways

When signs are erected giving notice thereof, no person may operate any vehicle exceeding the dimensions specified by such sign or signs at any time upon any street or part of a street so designated.

13-22-04 Restrictions Upon Use of Streets by Certain Vehicles

1. The city engineer or authorized person may determine and designate those streets upon which shall be prohibited the use of the roadway by off-highway vehicles, all-terrain vehicles, snowmobiles, bicycles, horse-drawn vehicles or other types of traffic and shall erect appropriate signs giving notice thereof.
2. When signs are so erected giving notice thereof, no person may disobey the restrictions stated on such signs.

13-22-05 Truck Route

It shall be unlawful to operate or cause to be operated within the city any commercial motor vehicle, semi truck-tractor, semi trailer, pole trailer or any combination thereof except on such street or streets as are designated as truck routes. The provisions of this paragraph shall not apply:

- a. To a vehicle traveling to or from a truck terminal, garage, place of repair, place of performing a service or a place of loading or unloading, over the shortest practicable route to a point on a truck route. The operator of any such vehicle shall have in his possession for inspection of law enforcement officers, his log book, delivery slips, or other evidence of his destination and point of origin to justify the presence of the vehicle on a street other than a designated truck route and shall present said evidence on demand of any law enforcement officer for this exception to apply.
- b. To any emergency vehicle operating in response to any emergency call.
- c. To a vehicle operated by any public utility while traveling in an assigned area for the purpose of inspecting the facilities of such public utility or providing maintenance service to such facilities.

d. To a city-owned vehicle operated for city purposes.

The following portions of avenues and/or streets, to be used in accordance with the provisions of this article, are hereby established as truck routes:

a. 1st Ave South from Hwy 281, west to 10th Street;

b. From the intersection of 1st Ave South and 10th Street, north to Central Ave;

c. From the intersection of 10th Street and Central Avenue, west to 13th Street;

d. 13th Street from the north city limits to the south city limits; and

e. 8th Street from the south city limits to 1st Ave South.

The city auditor or city superintendent shall keep and maintain an accurate map setting out the truck routes;

The city superintendent or any person authorized by the Board of City Commissioners shall erect and maintain appropriate truck route signs along all avenues and/or streets designated as truck routes by resolution of the governing body of the city.

13-22-06 Anhydrous Ammonia Tanks

Any driver pulling an anhydrous ammonia tank trailer shall not park said tank trailer at any place within the city except said tank trailer may be parked in order to purchase anhydrous ammonia. When traveling within the city, the driver of any vehicle pulling an anhydrous ammonia tank trailer shall use the shortest possible route to its source of purchasing anhydrous ammonia.

13-22-07 Penalty

Unless otherwise specified or stated in this chapter, any person violating this Article shall be assessed a fine of fifty dollars (\$50.00).

ARTICLE 23 - Criminal Traffic Violations

13-23-01 Persons Under the Influence of Intoxicating Liquor or Narcotic Drugs not to Operate Vehicle - Penalty

The provisions of North Dakota Century Code section 39-08-01 and all subsequent amendments are hereby incorporated by reference in this ordinance.

13-23-02 Prior Offenses

For purposes of this article and Article 13-23, a previous conviction does not include any prior violation of Section 13-21-01 if the offense occurred prior to July 1, 1981. (Source: North Dakota Century Code section 39-08-01.1)

13-23-03 Reckless Driving - Penalty

The provision of North Dakota Century Code section 39-08-03 and all subsequent amendments are hereby incorporated by reference in this ordinance.

13-23-04 Accidents Involving Damage to Vehicle - Penalty

The provisions of North Dakota Century Code section 39-08-05 and all subsequent amendments are hereby incorporated by reference in this ordinance.

13-23-05 Duty Upon Striking Unattended Vehicle - Penalty

The provisions of North Dakota Century Code section 39-08-07 and all subsequent amendments are hereby incorporated by reference in this ordinance.

13-23-06 Duty Upon Striking Fixtures Upon a Highway

The provisions of North Dakota Century Code section 39-08-08 and all subsequent amendments are hereby incorporated by reference in this ordinance.

13-23-07 Penalty for Driving While License Suspended or Revoked - Impoundment of Vehicle Number Plates - Authority of City

The provisions of North Dakota Century Code section 39-06-42 and all subsequent amendments are hereby incorporated by reference in this ordinance.

13-23-08 Immediate notice of accident

The provisions of North Dakota Century Code section 39-08-09 and all subsequent amendments are hereby incorporated by reference in this ordinance.

13-23-09 Driving Without a License

A person may not drive any motor vehicle upon a highway in this City unless such person has a valid license as an operator, or is expressly exempted from licensing requirements, by the laws of this state.

13-23-10 License to be Carried and Exhibited on Demand

The provisions of North Dakota Century Code section 39-06-16 and all subsequent amendments are hereby incorporated by reference in this ordinance.

13-23-11 Penalty

Any person who violates any provision of this article for which a specific penalty is not provided may be assessed a fine of up to one hundred dollars (\$100.00).

ARTICLE 24 - Disposition of Traffic Offenses

13-24-01 Halting Person for Violating Traffic Regulations - Duty of Officer Halting

The provisions of North Dakota Century Code section 39-07-07 and all subsequent amendment are hereby incorporated by reference in this ordinance.

Whenever any person is halted for the violation of any of the provisions of North Dakota Century Code Chapters 39-01 through 39-13, 39-18, 39-21 and 39-24, or of equivalent City ordinances, the officer halting that person, except as otherwise provided in sections 39-07-09, 39-20-03.1 or 39-02-03.2 of the North Dakota Century Code, may:

1. Take the name and address of the person;
2. Take the license number of the person's motor vehicle; and
3. Issue a summons or otherwise notify that person in writing to appear at a time and place to be specified in the summons or notice.

A halting officer may not take a person into custody or require that person to proceed with the officer to any other location for the purpose of posting bond, where the traffic violation was a non-criminal offense under Section 39-06.1-02. The officer shall provide the person with an envelope for use in mailing the bond.

13-24-02 Hearing - Time - Promise of Defendant to Appear - Failure to Appear - Penalty

The provisions of North Dakota Century Code section 39-07-08 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The time to be specified in the summons or notice provided for in Section 13-23-01 must be within thirty-five (35) days after the issuance

of the summons or notice or earlier if so ordered by the municipal judge or if the person halted demands an earlier hearing. If the person halted desires, the person may have the right, at a convenient hour, to an immediate hearing or to a hearing within twenty-four (24) hours. The hearing must be before the municipal court. Upon the receipt from the person halted of a written promise to appear at the time and place mentioned in the summons or notice, the officer shall release the person from custody. Any person refusing to give a written promise to appear must be taken immediately by the halting officer before the nearest or most accessible magistrate, or to such other place or before such other person as may be provided by a statute or ordinance authorizing the giving of bail. Any person willfully violating the person's written promise to appear is guilty of an offense, regardless of the disposition of the charge upon which the person originally was halted. The time limitations for a hearing as provided by this section do not preclude a recharging of the alleged violation if the person being charged receives a new summons or notice subject to the provisions of this section.

13-24-03 Offenses Under Which Person Halted May Not be Entitled to Release Upon Promise to Appear

The provisions of North Dakota Century Code section 39-07-09 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The provisions of Section 13-24-01 do not apply to a person if:

1. The halting officer has good reason to believe the person guilty of any felony or if the person is halted and charged with any of the offenses listed in Section 39-06.1-05 of the North Dakota Century Code, but not listed in subsection 2; or
2. The halting officer, acting within the officer's discretion, determines that it is inadvisable to release that person upon a promise to appear and if the person has been halted and charged with any of the following offenses
 - a. Reckless driving.
 - b. Driving in excess of speed limitations established by the state or by local authorities in their respective jurisdictions.
 - c. Driving while license or driving privilege is suspended or revoked for violation of section 39-06-42 of the North Dakota Century Code, or an equivalent ordinance.
 - d. Operating a modified vehicle.
 - e. Driving without liability insurance in violation of section 39-08-20 of the North Dakota Century Code.

f. Failing to display a placard or flag, in violation of any rule implementing section 39-21-44 of the North Dakota Century Code, while transporting explosive or hazardous materials.

g. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46 of the North Dakota Century Code

The halting officer forthwith shall take any person not released upon a promise to appear before the nearest or most accessible magistrate.

13-24-04 Traffic Violations Noncriminal - Exceptions - Procedures

Any person cited, in accordance with the provisions of Sections 13-24-01 and 13-24-02 of these ordinances, other than an offense listed in Section 39-06.1-05 of the North Dakota Century Code, is deemed to be charged with a non-criminal offense. The person may appear before the designated official and pay the statutory fine for the violation charged at or before the time scheduled for a hearing. If the person has posted bond in person or by mail, the person may forfeit bond by not appearing at the designated time. If the person appears at the time scheduled in the citation, the person may make a statement in explanation of the person's action, and the official may at that time waive, reduce or suspend the statutory fine or bond, or both. If the person cited follows the foregoing procedures, the person is deemed to have admitted the violation and to have waived his right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the official designated in the citation must be identical to the statutory fine established by Section 39-06.1-06 of the North Dakota Century Code. Within ten (10) days after forfeiture of bond or payment of the statutory fine, the official having jurisdiction over the violation shall certify to the licensing authority:

1. Admission of the violation; and
2. In speeding violations, whether the speed charged was in excess of the lawful speed limit by more than nine (9) miles (14.8 kilometers) per hour and the miles (kilometers) per hour by which the speed limit was exceeded.

This section shall not be construed as allowing a halting officer to receive the statutory fine or bond, unless he is otherwise authorized by law to do so. (Source: North Dakota Century Code section 39-06.1-02)

13-24-05 Administrative Hearing - Procedures - Appeals - Stay Orders

The provisions of North Dakota Century Code section 39-06.1-03 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. A person cited for a traffic violation, other than an offense listed in section 39-06.1-05 of the North Dakota Century Code, who does not follow one of the procedures set forth in section 39-06.1-02 of the North Dakota Century Code, may request a hearing on the issue of commission of the violation charged. The hearing must be held at the time scheduled in the citation, or at the time scheduled in response to the person's request or at some future time, not to exceed ninety (90) days later, set at that first appearance.
2. At the time of a request for a hearing on the issue of commission of the violation, the person charged shall deposit with the official having jurisdiction an appearance bond equal to the statutory fine for the violation charged.
3. If a person cited for a traffic violation, other than an offense listed in Section 39-06.1-05 of the North Dakota Century Code, has requested a hearing on the issue of the commission of the violation charged and appears at the time scheduled for the hearing, and the state or City, as the case may be, does not appear or is not ready to prove the commission of a charged violation at the hearing, the official shall dismiss the charge.
4. If the official finds that the person had committed the traffic violation, the official shall notify the licensing authority of that fact, and whether the person was driving more than nine (9) miles per hour in excess of the lawful limit, stating specifically the miles (kilometers) per hour in excess of the lawful limit, if charged with a speeding violation, within ten (10) days of the date of the hearing. The fact that a person has admitted a violation, or has, in any proceeding, been found to have committed a violation, may not be referred to in any way, nor be admissible as evidence in any court, civil, equity or criminal, except in an action or proceeding involving that person's driving license or privilege.
5. a. If a person is aggrieved by a finding that he committed the violation, the person may, without payment of a filing fee, appeal that finding to the district court for trial anew. If, after trial in the appellate court, the person is again found to have committed the violation, there shall be no further appeal. Notice of appeal under this subsection must be given within thirty (30) days after a finding of commission of a violation is entered by the official. Oral notice of appeal may be given to the official at the time that the official adjudges that a violation has been committed. Otherwise, notice of appeal shall be in writing and filed with the official, and a copy of the notice must be served upon the prosecuting attorney. An appeal taken under this subsection may not operate to

stay the reporting requirement of subsection 4, nor to stay appropriate action by the licensing authority upon receipt of that report.

- b. The appellate court upon application by the appellant may:
 - i. Order a stay of any action by the licensing authority during pendency of the appeal, but not to exceed a period of one hundred twenty (120) days;
 - ii. Order a stay and that the appellant be issued a temporary restricted driving certificate by the licensing authority to be effective for no more than one hundred twenty (120) days; or
 - iii. Deny the application.

An application for a stay or temporary certificate under this subdivision must be accompanied by a certified copy of the appellant's driving record, for the furnishing of which the licensing authority may charge a fee of three dollars (\$3.00). Any order granting a stay or a temporary certificate must be forwarded forthwith by the Clerk of Court to the licensing authority, which shall issue a temporary certificate in accordance with the order in the manner provided by law. A court may not make a determination on an application under this subdivision without notice to the appropriate prosecuting attorney. A person who violates or exceeds the restrictions contained in any temporary restricted driving certificate issued pursuant to this subdivision is guilty of a traffic violation and must be assessed a fine of twenty dollars (\$20.00).

- c. If the person charged is found not to have committed the violation by the appellate court, the clerk of court shall report that fact to the licensing authority immediately. If an appeal under this subsection is from a violation of a City ordinance, the city attorney shall prosecute the appeal. In all other cases, the appropriate state's attorney shall prosecute the appeal.
- 6. The state or the City, as the case may be, must prove the commission of a charged violation at the hearing or appeal under this section by a fair preponderance of the evidence. Upon an appeal under subsection 5, the court and parties shall follow, to the extent applicable, the North Dakota rules of Civil Procedure. If on the appeal from the finding of the official the finding is affirmed, costs may be assessed at the discretion of the trial judge.

7. As used in Sections 39-06.1-02, 39-06.1-03 and 39.06.1-04 of the North Dakota Century Code, the word "official" means a municipal judge or a magistrate or other qualified person appointed by the presiding judge of the judicial district, to serve as such official for all or a specified part of the judicial district.

13-24-06 Failure to Appear, Pay Statutory Fine, Post Bond - Procedure - Penalty

The provisions of North Dakota Century Code section 39-06.1-04 and all subsequent amendments are hereby incorporated by reference in this ordinance.

If a person fails to choose one of the methods of proceeding set forth in Sections 13-24-04 or 13-24-05, the person must be deemed to have admitted to commission of the violation charged, and the official having jurisdiction shall report such fact to the licensing authority within ten (10) days after the date set for the hearing. Failure to appear at the time designated, after signing a promise to appear, without paying the statutory fine or posting and forfeiting bond is a class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

13-24-07 Offenses Excepted

The provisions of North Dakota Century Code section 39-06.1-05 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The procedures authorized under Sections 39-06.1-02 and 39.06.1-03 of the North Dakota Century Code may not be utilized by a person charged with one of the following offenses:

1. Driving or being in actual physical control of a vehicle in violation of Section 13-23-01.
2. Reckless driving or aggravated reckless driving in violation of Section 13-23-03.
3. A violation of Chapter 12.1-16 of the North Dakota Century Code resulting from the operation of a motor vehicle.
4. Leaving the scene of an accident in violation of Sections 39-08-04, 39-08-05, 39-08-07, 39-08-08 of the North Dakota Century Code, or equivalent ordinances.
5. Driving while license or driving privilege is suspended or revoked in violation of Section 39-06-42 of the North Dakota Century Code, or an equivalent ordinance.

6. Violating subdivisions b and c of subsection 5 of Section 39-24-09 of the North Dakota Century Code.
7. Operating a modified motor vehicle in violation of Section 39-21-45.1 of the North Dakota Century Code.
8. Driving without liability insurance in violation of Section 39-08-20 of the North Dakota Century Code.
9. Operating an unsafe vehicle in violation of subsection 1 of section 39-21-46 of the North Dakota Century Code.
10. Causing an accident with an authorized emergency vehicle in violation of subsection 2 of section 39-21-46 of the North Dakota Century Code.

13-24-08 Amount of Statutory Fees

The provisions of North Dakota Century Code section 39-06.1-06 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The fees required for a non-criminal disposition pursuant to either Section 13-24-04 or Section 13-24-05 shall be as follows:

1. For a nonmoving violation as defined in Section 13-24-09, a fee of any amount not to exceed twenty dollars (\$20.00).
2. For a moving violation as defined in Section 13-24-10, a fee of twenty dollars (\$20.00), except for:
 - a. a violation of section 13-08-01 and 13-08-02, a fee of one hundred dollars (\$100.00);
 - b. a violation of section 13-09-17, a fee of two hundred fifty dollars (\$250.00);
 - c. a violation of section 13-09-20 and 13-09-28, a fee of one hundred dollars (\$100.00);
 - d. a violation of section 13-10-02, a fee of fifty dollars (\$50.00);
 - e. a violation of section 13-19-02, a fee of twenty-five dollars (\$25.00);
 - f. a violation of section 13-07-07, a fee of fifty dollars (\$50.00);

- g. a violation of Section 13-05-01, or an ordinance defining careless driving, a fee of thirty dollars (\$30.00);
 - h. a violation of Section 13-05-09, or an ordinance defining care required in driving, a fee of thirty dollars (\$30.00);
 - i. a violation of Section 13-19-02, a fee of twenty-five dollars (\$25.00).
3. For a violation of Section 13-05-02(1)(a), (c), (d), (e), (f), (g), (h), or (i) and 13-05-02(2), a fee established as follows:

Miles Per Hour Over
Lawful Speed Limit

FINE

1 - 5	\$ 5.00
6 - 10	\$ 5.00 plus \$1/each mph over 5 mph over limit
11 - 15	\$ 10.00 plus \$1/each mph over 10 mph over limit
16 - 20	\$ 15.00 plus \$2/each mph over 15 mph over limit
21 - 25	\$ 25.00 plus \$3/each mph over 20 mph over limit
26 - 35	\$ 40.00 plus \$3/each mph over 25 mph over limit
36 - 45	\$ 70.00 plus \$3/each mph over 35 mph over limit
46	\$100.00 plus \$5/each mph over 45 mph over limit

4. For a violation of 13-05-02(1)(b), a fee established as follows:

Miles Per Hour Over
Lawful Speed Limit

FINE

1 - 10	\$ 40.00
11 and higher	\$ 40.00 plus \$1/each mph over 10 mph over limit

13-24-09 "Nonmoving Violation" Defined

The provisions of North Dakota Century Code section 39-06.1-08 and all subsequent amendments are hereby incorporated by reference in this ordinance.

For the purpose of 13-24-08, a "nonmoving violation" means a violation of Sections 13-09-24, 13-09-32, 13-09-33, 13-23-09 or the provisions of Article 15, Article 16, Article 17 or Article 18 of this Chapter.

13-24-10 "Moving Violation" Defined

The provisions of North Dakota Century Code section 39.06.1-09 and all subsequent amendments are hereby incorporated by reference in this ordinance.

For the purpose of 13-24-08, a "moving violation" means a violation of Article 5, Article 6, Article 7, Article 8, Article 9, Article 11, Article 13, Article 14, Article 19, Article 20, Article 21 or Article 23 of this Chapter, except those sections for which a specific penalty is provided and those sections which are specifically listed in Section 13-24-09.

13-24-11 General Penalty for Violation of Chapter

The provisions of North Dakota Century Code section 39-07-06 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Any person violating any of the provisions of this Chapter for which another criminal penalty is not provided specifically is guilty of an infraction as defined in section 12.1-32-01 of the North Dakota Century Code. As used in this section, the phrase "another criminal penalty" includes provision for payment of a fixed fine for violating another section of this chapter but does not include other administrative sanctions which may be imposed.

13-24-12 Notification of Parents or Guardians of Juvenile Traffic Offenders

The municipal judge or municipal court clerk shall notify the parent or guardian of any juvenile appearing before the court on a traffic offense of the charge as contained in the citation, the penalty attached to the offense and the time and place of any court hearing on the matter.

ARTICLE 25 - Sections not Adopted

The sections of Title 39 of the North Dakota Century Code not expressly adopted in Article 1 through Article 22 of this Chapter, inclusive, are not adopted by reference.

ARTICLE 26 - Filing of Ordinance

Incident to the adoption of certain portions of Title 39 of the North Dakota Century Code by reference, a copy of the text of the adopted code shall be filed in the office of the city auditor as required by North Dakota Century Code section 40-05-01(1) for use and examination by the public.

ARTICLE 27 - Adoption of Amendments by Reference

The adoption of certain portions of Title 39 by reference shall be construed to incorporate such amendments as may be made therein from time to time, and such copy of the adopted portions to Title 39 filed as required in Article 24 of this Chapter shall at all times be kept current in the office of the city auditor of this City.

ARTICLE 28 - Severability Clause

If any provision of this chapter or its application to any person, or circumstances is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

ARTICLE 29 - Penalties

Any person who is convicted of violating or of failing to comply with any of the provisions of this chapter may be punished by a fine of not more than one thousand five hundred dollars (\$1,500.00) or by imprisonment not to exceed thirty (30) days, or both.

FIRST READING: July 24, 2017
SECOND READING: August 7, 2017
EFFECTIVE DATE: September 4, 2017

Calvin J. Packard
President, City Commission
New Rockford, North Dakota

Attest:

George J. Ritzke
City Auditor

CHAPTER 14

ZONING - PLANNING

Article 1.

PLANNING AND ZONING COMMISSION

14-01-01 Planning Commission Created.

There is hereby created a planning commission for the City of New Rockford which shall consist of five (5) members to include the following:

1. Four (4) members to be appointed by the President with the approval of the Board of City Commissioners.
2. The President, City Engineer and the City Attorney, who shall be ex officio members of the commission.
3. One (1) member residing outside the corporate limits of the city whose residence is located in unincorporated territory located within one-half (1/2) mile of the corporate limits of the City of New Rockford, said one (1) member to be appointed by the Eddy County Board of County Commissioners.

14-01-02 Term of Office and Compensation.

1. Of the four (4) appointed members, one (1) shall serve for a period of one (1) year, one (1) for a period of two (2) years, one (1) for a period of three (3) years and one (1) for a period of four (4) years. Thereafter, such appointed members shall serve for a period of five (5) years.
2. Ex officio members shall serve for the term of their elective or appointive office.
3. The one (1) member appointed by the Eddy County Board of County Commissioners shall serve for five (5) years.
4. All members of the commission shall serve without compensation.

14-01-03 Ex Officio Zoning Commission.

The planning commission shall also serve as the zoning commission of the City to hold hearings, make reports and recommendations as to the boundaries of the various original districts and appropriate regulations to be enforced therein and for changes in or supplements thereto.

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14-01-04 Powers.

The said planning commission shall have such powers and shall perform such duties as may now or hereafter be provided by state law and city ordinances; and pursuant to N.D. Cent. Code 40-47-06 it is hereby appointed as the New Rockford City Zoning Commission and authorized to assume all powers and perform such duties appropriate to such appointment.

14-01-05 Zoning Authority and Territorial Jurisdiction.

The territorial jurisdiction of the zoning commission for land use zoning and subdivision of land is declared to include not only all land located within the corporate city limits of the City of New Rockford, but shall extend to all unincorporated territory located within one-half (1/2) mile in every direction of its city limits as authorized by N.D. Cent. Code 40-47-01.1

Article 2.

DEFINITIONS

14-02-01 Definitions.

For the purpose of this ordinance words used in the present tense include the future, singular words include the plural, and the word "building" includes the meaning of the word "structure", and the word "person" includes "corporation", "copartnership", or any form of organization, the word "used" includes the meaning of the words "arranged", "designated", and "intended to be used", and the use of the word "shall" shall be deemed to be mandatory and not directory. Certain other terms and words as used herein are defined as follows:

- (1) "Accessory Building" means a portion of a main building, or a subordinate building located on the same premises with the main building, intended for a use customarily incident to the main use of the premises;
- (2) "Alley" means any public way intersecting a city block or portion thereof.
- (3) "Building" means any structure for the support, shelter or enclosure of persons, chattels or property of any kind; when such structure is divided by a party wall or by division walls made without openings and extending from foundation to roof, then each portion of such structure so separated shall be deemed a separate building;

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- (4) "Building Area" means the maximum projected area of a building and its accessories, excluding steps, porches, terraces and cornices;
- (5) "Community Garage" means a group of private garages located jointly on any lot or premises or two (2) or more adjacent premises and having no shop or service in connection therewith, with a total capacity of not more than four (4) motor vehicles; provided that a community garage may exceed four (4) motor vehicle storage spaces if the lot on which said building is located includes at least two hundred fifty (250) square feet for each motor vehicle storage space;
- (6) "Curb Level" means the level established for curb in front of a building, measured at the center of such front, and where no curb level has been established the city engineer shall establish such curb level or its equivalent for the purpose of this ordinance;
- (7) "Depth of Rear Yard" refers to the mean distance between the rear line of the building and the centerline of the alley, if an alley exists, otherwise to the rear lot line;
- (8) "Depth of Lot" refers to the mean distance between the front street line and the rear lot line;
- (9) "Family Hotel" means a place where food and lodging are provided for transients or transient guests and having less than ten (10) sleeping rooms;
- (10) "Front Yard" means an open, unoccupied place or space between the front line of the building proper and the street line;
- (11) "Garage" means any premises used for the housing or storage of motor vehicles or where such vehicles are equipped for operation, repaired or kept for hire or sale, not including show rooms for the display of cars;
- (12) "Grade" means the surface of the ground, court, lawn, yard or sidewalks adjoining a building; the established grade is the grade of the street curb lines fixed by the City of New Rockford; the natural grade is the undisturbed natural surface of the ground; the finished grade is the surface of the ground, court, lawn, or yard, after filling or grading to desired elevation or elevations around a building or structure; but where the finished grade is below the level of the adjoining street, the established grade shall be deemed the finished grade;

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- (13) "Half Story" means the portion of a building immediately under a sloping roof which has the point of intersection of the top line of the rafters and the face of the walls not to exceed three (3) feet above the top floor level;
- (14) "Height of Building" means the vertical distance from the top of the curb at the middle of the building or the ground level at the front of the building to the average height of the roof; in case of a flat roof, to the top of the highest enclosure wall; in case of a mansard roof, to the top of the desk;
- (15) "Height of Court or Yard" means the vertical distance from the lowest level of such court or yard to the highest point of any bounding wall;
- (16) "Hotel" means a building where food and lodging are provided for transient guests and having ten (10) or more sleeping rooms;
- (17) "Inner Court" means an open) unoccupied space surrounded on all sides by walls, or by walls and a lot line;
- (18) "Length of Outer Court" refers to the mean distance between the open and closed ends of the court.
- (19) "Lodging House" means a place where lodging is provided for compensation for more than five (5) persons;
- (20) "Lot" means the land bounded by definite lines and occupied or to be occupied by a building and its accessory buildings and including the open spaces required under this ordinance and regulations; a lot may or may not be the land so recorded;
- (21) "Lot, Corner" means a lot fronting on a street line of a street or streets having a width or length from the point of angle in one direction along said line or lines of not more than fifty (50) feet) and in the other direction along said line or lines a depth or length from the point of angle or not more than one hundred fifty (150) feet; any part of a lot fronting on such street line or lines which is in excess of an area of seven thousand five hundred (7,500) square feet shall be treated as a corner lot;
- (22) "Lot, Inside" means a lot other than a corner lot;
- (23) "Lot, Through" means an inside lot having frontage on two (2) streets;

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- (24) "Mobile Home" means a mobile or portable dwelling constructed to be towed on its own chassis, connected to utilities, not placed on a permanent foundation, and used for year-round living. It can consist of one (1) or more units that can be telescoped when towed, or two (2) or more units separately towable but designed to be joined into one (1) integral unit.
- (25) "Mobile Home Lot" means a parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- (26) "Mobile Home Park" means a plot of ground under single ownership or management which has been planned and improved for the placement of at least ten (10) mobile homes which are used for dwelling or sleeping purposes, regardless of whether or not a charge is made for such accommodation.
- (27) "Non-Conforming Use" means a use of a building or premises other than that permitted within the use district in which it is situated;
- (28) "Outer Court" means a court extending to a street, alley or yard;
- (29) "Private Garage" means a garage other than a public garage or community garage;
- (30) "Rear Yard" means an open space between the rear line of the building and the rear lot line for the full width of the lot, unoccupied except by accessory buildings not exceeding twenty-five (25) percent of the area of the rear yard;
- (31) "Side Yard" means an open unoccupied space on the same lot with a building and between the building and the side line of the lot for the full depth of the lot;
- (32) "Street" means a public highway designated as a street, avenue, boulevard, place, court or road on the official maps and records"
- (33) "Structural Alterations" means any change in the supporting members of a building such as bearing walls or partitions, columns, beams, or girders, excepting such alteration as may be required for the safety of the building.

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- (34) "Travel Trailer" means any of the following:
- (1) Travel Trailer: A towable, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses.
 - (2) Motorized Home: A portable, temporary dwelling to be used for travel, recreation, and vacation; constructed as an integral part of a self-propelled vehicle.
 - (3) Camping Trailer: A canvas, folding structure mounted on wheels and designed for travel, recreation, and vacation use.
- (35) "Travel Trailer Park" means a plot of ground under single ownership or management which has been planned and improved for the parking of at least ten (10) travel trailers regardless of whether or not a charge is made for such accommodation.
- (36) "Travel Trailer Space". means a parcel of land in a travel trailer park for the parking of a single travel trailer and the exclusive use of its occupants.

Article 3.

ESTABLISHMENT OF DISTRICTS

14-03-01 Use and Area Districts Established.

For the purposes of this chapter, the City is hereby divided into use districts and area districts as provided hereafter.

14-03-02 Maps and Boundaries.

The boundaries of these districts are hereby established as shown on a map entitled "The Zoning Map of the City of New Rockford", which is on file in the office of the city auditor and which map with all explanatory matter thereon shall be deemed to accompany, be and is hereby made a part of this chapter.

14-03-03 Annexed Property.

Property which has not been included within a district and which has become a part of the City by annexation shall automatically be classified as lying and being in the A residential district until such classification has been changed by an amendment to the Zoning Ordinances as prescribed by law.

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14-03-04 District Boundaries When Questionable, How Determined.

Where uncertainty exists with respect to the boundaries of the various districts hereby established and as shown on the maps and made a part of this ordinance, the following rules shall apply:

- (1) The district boundaries are the centerlines of streets or alleys, unless otherwise shown.
- (2) Where the district boundaries are not centerlines of streets or alleys and where the land has been or may hereafter be divided into lots, or blocks and lots, the district boundaries shall be construed to be lot lines; and where the designations on the maps accompanying and made a part of this ordinance indicating the various districts are approximately bounded by lot lines, the nearest lot line shall be construed to be the boundary of such district.
- (3) Where land has not been subdivided into lot or blocks and lots, the district boundary lines on the official zoning map, which is made apart of this ordinance, shall be determined by the use of the scale of measurement shown on such map.
- (4) Where uncertainty may exist as to the exact boundary line of a district, the same shall be determined by the Board of Adjustment and a record kept thereof.

Article 4.

APPLICATION OF REGULATIONS

14-04-01 Application of Regulation.

Except as provided in this chapter:

1. Conformity of Buildings and Land. No building, structure or premises shall be used or occupied and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified for the district, as shown on the official map, in which it is located.
2. Conformity of Buildings. No building, structure or premises shall be erected, altered or used so as to produce smaller yards or less unoccupied area, and no building shall be occupied by more families than prescribed for such building,

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structure or premises for the district in which it is located.

3. Conformity of Open Spaces. No yard, court or open space, or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling under this chapter.

Article 5.

NON-CONFORMING USES

14-05-01 Non-Conforming Uses.

The lawful use of any building, structure, or land existing at the time of the enactment of this chapter may be continued, although such use does not conform with the provisions of this chapter, provided the following conditions are met:

1. Alterations. A non-conforming building or structure may be altered, improved or reconstructed provided such work is not to an extent exceeding in aggregate cost twenty-five percent (25%) of the assessed value of the building or structure, unless the building or structure is changed to a conforming use.
2. Extension. A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building or structure which existed prior to the enactment of this Ordinance shall not be deemed the extension of such non-conforming use.
3. Changes. No non-conforming building, structure or use shall be changed to another non-conforming use.
4. Abandonment. A non-conforming use of a building or premises which has been abandoned shall not thereafter be returned to such non-conforming use.
5. Unlawful Use Not Authorized. Nothing in this chapter shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this chapter. However, mobile homes now parked and located in the "A" Residential Districts may remain so located after the passage of this Zoning Ordinance, however, at such time as mobile homes presently located on lots in such Districts shall be removed or there is a change in legal ownership of

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the real property from the owner at the time this ordinance is passed, such lots shall be used only for such uses as are authorized and permitted in "A" Residential Districts, and no further mobile home parking will be permitted on such lots.

6. Certificate of Non-Conforming Use. Upon the effective date of this chapter; the Board of City Commissioners shall issue a "Certificate of Non-Conforming Use" to all owners of property, the use of which does not conform to the provisions of the use in which the property is located.
 - a. In accordance with the provisions of this section no use of land, buildings or structures shall be made other than that specified on the "Certificate of Non-Conforming Use", unless said use shall be in conformity with the provisions of the use zone in which the property is located.
 - b. A copy of each "Certificate of Non-Conforming Use" shall be filed with the office of the city auditor. No permit or license shall be issued to any property for which a "Certificate of Non-Conforming Use" has been issued until said permit or license has been approved by the Zoning Commission.
7. District Changes. Whenever the boundaries of a district shall be change so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any non-conforming uses existing therein.

Article 6.

USE DISTRICTS

14-06-01 Use Districts.

The City is hereby divided into the following Use Districts to be known as:

- A - Residential Districts
- B - General Business Districts
- C - Light Industrial Districts
- D - Mobile Home Park and Travel Trailer Park Districts
- E - Agricultural Use Districts
- F - Heavy Industrial Park Districts

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14-06-02 "A" Residential District, Regulation.

In the "A" Residential District the regulations shall be as follows:

- (1) Height. No building shall exceed forty (40) feet or three (3) stories in height.
- (2) Area. The minimum dimensions of yards and courts and the maximum building area of the building shall be as follows:
 - A. Front Yard. There shall be a front yard having a depth of not less than 15 percent of the lot depth; the depth of the yard, however, need not exceed 20 feet;
 - B. Rear Yard. There shall be a rear yard having a depth of not less than 25 percent of the depth of the lot, nor less than one-half (1/2) the height of the building; the depth of the yard) however) need not exceed twenty-five (25) feet, nor shall it be less than ten (10) feet;
 - C. Side Yard. There shall be a side yard on each side of the building, each yard having a width of not less than ten (10) percent of the lot width; the width of such side yard, however, need not exceed eight (8) feet; provided that its width shall not be less than one-fifth (1/5) of the height of the building;
 - D. Outer Court. An outer court shall not be less than seven (7) feet wide, nor less than equal to one-quarter (1/4) of the height of the building;
 - E. Inner Court. An inner court shall have a width of not less than that equal to one-third (1/3) the height of the building, and in no case less than eight (8) feet, nor shall its area be less than twice the square of its required least dimensions.
- (3) Building Area. No building with its accessories shall occupy in excess of twenty-six (26) percent of an inside lot, nor in excess of forty-five (45) percent of a corner lot.
- (4) Use. All new buildings and alterations of existing buildings shall be used exclusively, and exclusively constructed, designed and arranged, for one or more of the following purposes:
 - A. One-family dwellings;
 - B. Two-family dwellings;

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- C. Churches and Schools;
- D. Parks and Playgrounds;
- E. Nurseries and greenhouses, but not including any sales rooms or other buildings used primarily for the sale of products thereof;
- F. The following accessory uses and buildings are permitted in residential districts.
 - 1. Professional office for a physician, dentist, chiropractor, clergyman, architect, engineer, attorney, or similar professional person residing in such main building. No display advertising other than a sign or plate not more than two (2) feet square bearing only the name, occupation and office hours of such person shall be made in connection thereof.
 - 2. Home occupation. Customary home occupation for gain carried on in the main building or a building accessory thereto requiring only home equipment and employing no non-resident help, and no trading in merchandise is carried on.
 - 3. Gardens.
 - 4. Private garages.
 - 5. Any other accessory use customarily incident to a use authorized in a residential district.
- G. Apartment houses and multiple-family dwellings, including the usual accessories to these various buildings located on the same lot, not involving the conduct of a business but including a community garage, subject to the following regulations:
 - (1) Building Height Limit:
Four stories but not exceeding fifty (50) feet.
 - (2) Required Lot Area:
Each multiple-family dwelling shall be located on a lot having an area of not less than eight hundred (800) square feet for each family housed therein.

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- (3) Floor Area Requirements:
Each multiple dwelling shall provide not less than four hundred (400) square feet for each dwelling unit.
- (4) Percentage of Lot Coverage:
All buildings including accessory buildings shall not cover more than fifty percent of the area of the lot.
- (5) Yards Required:
Yards of the following minimum depths shall be provided:
 - (a) Front yard--twenty-five (25) feet.
 - (b) Side yards--each one-fourth (1/4) the height of the building, but not less than seven (7) feet.
 - (c) Rear yard--forty (40) feet.
- (6) Required Court Dimensions:
 - (a) Outer Courts:
 - 1. The width of any outer court upon which windows from a living room, bedroom, or dining room open shall be not less than one-half the height of any opposing wall forming said court but not less than fourteen (14) feet. The depth of an outer court formed by walls on three sides, shall be not greater than two times the width.
 - 2. The width of any outer court shall be not less than one-third the height of any opposing wall forming said court but not less than ten (10) feet and the depth shall not be greater than two times the width.
 - (b) Inner Courts:
 - 1. The least dimension of an inner court shall be not less than one-half the height of the walls enclosing such courts, but not less than fourteen (14) feet.

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(c) Height:

1. The height shall be measured from the lowest windowsill.

(7) Distance Between Buildings on Same Plot:

No principal building shall be closer to any other principal building than the average of the heights of said buildings.

14-06-03 "B" General Business District Regulations:

- (1) Height. No building shall exceed sixty (60) feet or four (4) stories in height.
- (2) Side Yard. Any building used for residence purposes on the first floor shall have a side yard of not less than 5 feet.
- (3) Front Yard. Any building used for residence purposes on the first floor shall have a front yard equal to that required for a similar dwelling in the residence district.
- (4) Rear Yard. Ten feet, except that on corner lots none shall be required for a depth of 50 feet measured from the side lot line.
- (5) Use Purposes. Except as otherwise provided in this ordinance, all new buildings, and alterations of existing buildings, shall be exclusively constructed, designed and arranged for, and all buildings and premises or parts thereof shall be used exclusively for, one or more of the following purposes:
 - A. Any use permitted in the "A" Residential Districts.
 1. Stores and shops for the conducting of any retail business.
 2. Banks, offices, studios, hotels.
 3. Restaurants, tearooms, cafes and other places serving food or beverages.
 4. Theaters, billiard or pool parlors, bowling alley, skating rink, or similar recreation uses or places of assembly.
 5. Private schools conducted for gain.

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6. Personal service shops such as barber, shoe shine shop, beauty parlor.
7. Caterer, undertaker.
8. Telegraph office, telephone and express office.
9. Baking, confectionery, dressmaking, dyeing, laundry, printing, tailoring, upholstering and similar establishments, and businesses of a similar and no more objectionable character.
10. Public garages, automobile repair shops, automobile service stations, automobile parking lots, used car lots.
11. Advertising signs and advertising structures provided they are attached to a business building or they are located where the street frontage is more than 50% developed to commercial uses.
12. Wholesale, storage, and warehouse facilities.
13. Lumber, wood, feed, or other similar storage yards, but not salvage yards, coal yards or junkyards.
14. Uses of a light manufacturing nature, employing electricity or other unobjectionable motive power, utilizing hand labor or unobjectionable machinery or processes, and free from any objectionable odors, fumes, dirt, vibration, or noise.
15. Electric sub-station, freight yard.
16. Bottling works.
17. Veterinary hospital.
18. Accessory buildings and accessory uses.
19. Tourist Courts or tourist cabins.
20. Licensed and approved trailer parks.
21. All buildings located within the fire limits, as defined by ordinance, shall conform to the construction as prescribed in said ordinance.

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14-06-04 "C" Industrial District, Regulations.

In the "C" Industrial District the regulations shall be as follows:

- (1) Uses Permitted:
All uses not otherwise prohibited.
- (2) Uses Prohibited:
The following trades, industries or uses are specifically prohibited.

Abattoir

Acetylene gas manufacture and/or storage

Acid manufacture (hydrochloric, nitric, picric, sulphuric, sulphaneous, carbolic)

Asphalt manufacture or refining

Auto wrecking

Blast furnace

Boiler or tank works

Brewery or malt house

Brick, pottery tile or terra cotta manufacture

Cement, lime, gypsum, or plaster of paris manufacture

Central mixing plant for cement, mortar, plaster, or paving materials

Crematory

Curing, tanning or storage of raw hides and skins

Drilling for oil, gas or other hydrocarbon substances

Dyestuff manufacture

Fertilizer manufacture

Fish smoking or curing

Forge plant

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Foundry or metal fabricating plant

Glass manufacture

Glue, size or gelatine manufacture

Grain elevator

Iron, steel, brass or copper foundry or fabrication plant

Junkyard

Linoleum manufacture

Linseed oil, paint, oil, shellac, turpentine or varnish
manufacture

Match manufacture

Meatpacking

Oxygen manufacture

Paper or pulp manufacture

Petroleum or kerosene refining, distillation or derivation of
by-product and/or storage

Plastics manufacture

Power forge (riveting, hammering, punching, chipping,
drawing, rolling or tumbling of iron, steel, brass, or
copper, except as a necessary incident of manufacture of
which these processes form a minor part, and which are
carried on without objectionable noise outside the plant.)

Rayon Manufacture

Reduction, canning, processing or treatment of fish or animal
products

Rock crusher

Rolling mill

Rubber or gutta-percha manufacture or treatment

Salt Works

Slaughter Houses

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Smelting of tin, copper, zinc, lead or iron ores

Soap manufacture

Soda and washing compound manufacture

Starch, glucose or dextrine manufacture

Stock yards

Stone quarry, mill or crusher

Storage or baling of rags, iron or junk

Structural steel or pipe works

Sugar refining

- (3) Building Height Limit:
Five (5) stories but not exceeding sixty-five (65) feet.
- (4) Required Lot Area:
Any building used for residence purposes on the first floor shall have a lot width and lot area equal to that required for a similar dwelling in the residence district.
- (5) Percentage of Lot Coverage:
Any building used for residence purposes on the first floor including accessory buildings, shall not cover more than forty (40) per cent of the area of the Lot.
- (6) Yards Required:
Front Yard--Any building used for residence purposes on the first floor shall have front yard of 20 feet.

Side Yards--Any building used for residence purposes shall have side yards equal to those required for a similar dwelling in the residence district.

Rear Yard--Twenty-five (25) feet.

14-06-05 "D" Mobile Home Park and Travel Trailer Park District Regulations Shall be as Follows:

- (1) This district shall consist of those areas duly licensed by the City of New Rockford under Chapter 16 of these ordinances as either a Mobile Home Park or Travel Trailer Park, and the District shall be used exclusively for mobile home parking or travel trailer parking.

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(2) In the "D" District where Mobile Home parking is permitted by this ordinance, the following rules and regulations shall apply:

- A. Lot Area. In no event shall a mobile be parked or placed upon a lot less than 40 feet wide.
- B. Permit Required. Before a Mobile Home may be parked or placed on a lot in the "D" Districts, a permit shall be obtained from the building officer of the City of New Rockford, or other person designated by the City Commission. An application for permit shall state the name of the applicant, a description of the lot, or lots, for which such application is submitted, and a description of the Mobile Home to be parked on such lot. No permit shall be issued unless the applicant shall have the licensed mobile home park owner certify that all technical requirements under Article 3, Chapter 16 of these ordinances have been fully complied with.
- C. Permit Fee. The fee for a permit to place a mobile home upon a lot in the "D" Districts shall be Ten and no/100 Dollars (\$10.00).

14-06-06 Height Regulations, Exceptions.

This ordinance shall not be deemed to limit or restrict the height of aeroplane land towers, belfries, chimneys, clock towers, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, stacks, sugar refineries, tanks, water towers, flag poles, ornamental towers, pent houses, spires, or wireless towers, but these structures shall be subject to such restrictions and regulations as may be imposed by ordinance. Towers may be erected to any height provided the same shall not exceed in area one-quarter (1/4) the area of the lot upon which the building to which said tower is an appurtenance is erected, and shall not exceed two thousand five hundred (2,500) square feet in area and shall be distant at every point at least twenty-five (25) feet from any adjoining property line. Churches, public or semi-public buildings, hospitals, sanitariums or schools may exceed the height restrictions of the district; provided, such structures shall have side yards on both sides complying with the area district regulations, and in addition the side yards shall be increased one (1) foot in width for each five (5) feet the building exceeds the height regulations of the district.

14-06-07 Area Regulations, Exceptions To.

The foregoing requirements in the various districts shall be subject to the following exceptions to the regulations:

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- (1) A building, except buildings for human habitation, upon a through lot, may waive the requirements for a rear yard; provided, however, that when such a building is located between lots either or both of which require rear yards, such building on the through lot shall provide a court on the side or sides on which the adjoining lots are required to provide a yard or court.
- (2) In computing the depth of the front yard in the "A" Residential Districts, in portions which have been partly built up, where the average established depth of front yards fronting on one side of any given street between two (2) cross streets exceeds the requirements under this ordinance, the depth of the front yards of future buildings fronting on side streets as required under this ordinance shall be increased to conform with such average. If the average established depth of front yard is less than that required under this ordinance, the depth of the front yard may be decreased to conform to such average, which shall in no case be less than ten (10) feet. No existing building shall be altered to decrease the depth of the front yard so that the same shall fall below or still further fall below the requirements of this section for future buildings.
- (3) In the "A" Residential Districts no building on a corner lot shall have a side yard on the side street less than ten (10) feet in width, and a porch for this purpose shall be deemed a part of the building proper.
- (4) In the "A" Residential Districts, in portions which have been partly built up, no building constructed or altered on a corner lot shall be so constructed or altered that the front yard or side yard facing on the street or avenue lying along the shorter side of the originally platted lot of which such corner lot forms a part of the whole thereof, shall be less than the average established depth of front yards fronting on said street or avenue between the two (2) cross streets within which said building is located and fronting on the same side of said street; nor shall any such front yard or side yard be less than ten (10) feet.
- (5) Every part of a required yard or court shall be open from its lowest level to the sky unobstructed, except for the ordinary projections of skylights above the bottom of such yard or court and except for the projections of sills, belt courses, cornices, and ornamental features not to exceed six

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inches. Provided, that open or lattice-enclosed fire escapes, fire proof outside stairways and solid floored balconies opening upon fire towers, projecting into a yard not more than five (5) feet or into a court not more than three and one-half (3 1/2) feet, and ordinary projections of chimneys and flues, may be permitted where so placed as not to obstruct light and ventilation.

- (6) All rooms in which persons live, sleep, work or congregate shall have a window or skylight opening directly upon a street, alley, court or yard, conforming to the requirements of this ordinance. Said window or skylight shall have a net area of glass of at least ten (10) percent of the floor area of such room, provided that if it be impractical to provide such windows as aforesaid, such rooms shall, in lieu of such windows, be ventilated by an approved mechanical system which shall effect at least six (6) complete changes of air per hour during occupancy; provided further, that the provisions of this section shall not apply to rooms in which the unoccupied space exceeds one thousand (1,000.00) cubic feet for each occupant; and provided further, that the provisions of this section shall not apply when the introduction of such light or ventilation would prove injurious to the manufacture or storage of any article or commodity.
- (7) In the case of a church, educational institution or school located in "A" Residential Districts, no part of which is used as a place of habitation, the rear yard requirement of this section shall be waived and the building permitted to occupy seventy-five (75) percent of a corner lot, or sixty-five (65) percent of an inside lot, under such conditions that no wall of the building shall be nearer the rear line of the lot than six (6) feet, and that side yards other than one adjoining a street or alley be provided having a width of not less than ten (10) percent of the width of the lot, and provided that no side yard shall be required to exceed eight (8) feet in width.
- (8) In the "A" Residential Districts the requirements for side yards may be waived for private garages, provided the adjoining property owner consents to such waiver.

14-06-08 Construction of Buildings in "A" Residential Districts.

All new buildings and alterations of existing buildings in the "A" Residential Districts shall have a foundation wall built of stone, brick, concrete, or some other equally good permanent substance, under the whole building; shall have the sidewalls either sided and painted, or shingled, or stuccoed, or of some other equally

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good, permanent finish construction; and shall be connected with the city waterworks and sewage, provided the city water mains and sewage mains, respectively, are within 200 feet of the lot line of the lot on which such building is built, and said building shall also have an inside toilet connected with the city sewer system, provided the sewer system mains are laid within 200 feet of the said lot line.

14-06-09 Gasoline Filling Stations and Bulk Stations: Where Prohibited.

It shall be unlawful for any person, firm or corporation to erect, construct or maintain and operate any retail gasoline filling station or bulk oil or gasoline station where petroleum products are sold or handled within 300 feet of any block in the City of New Rockford whereon there is located any public or parochial school.

14-06-10 Same: Deemed Health Menace and Public Nuisance, When.

All gasoline stations for selling gasoline and petroleum products at retail and all bulk or wholesale stations for the handling of gasoline and all other petroleum products are hereby declared to be dangerous instrumentalities, and when located or to be located within the territory described in 14-06-09 are hereby declared to constitute a menace to public health and safety and to be a public nuisance.

14-06-11 Same: Application of 14-06-09 and 14-06-10.

Sections 14-06-09 and 14-06-10 shall not be construed to apply to any retail gasoline filling station or bulk oil or gasoline station handling petroleum products that may have been in existence or operation prior to taking effect of this ordinance.

14-06-12 "E" Agricultural Use District, Regulation.

(1) Uses. No Building, structure, or premises shall be sued except for the following purposes:

- A. Any use permitted in the "A Residential Districts.
- B. Raising of agricultural commodities and hay, and the keeping of equine, ovine and bovine animals only.

14-06-13 "F" Heavy Industrial Park Regulations.

In the "F" Heavy Industrial Park the regulations shall be as follows:

- (1) Uses Permitted:
All uses not otherwise prohibited.
- (2) Uses Prohibited:
The following trades, industries or uses are specifically prohibited.

Acetylene gas manufacture and/or storage

Acid manufacture (hydrochloric, nitric, picric, sulphuric, sulphaneous, carbolic

Asphalt manufacture or refining

Auto wrecking

Blast furnace

Crematory

Glue, size or gelatine manufacture

Junkyard

Linoleum manufacture

Licensed oil, paint, oil, shellac, turpentine or varnish manufacture

Match manufacture

Oxygen manufacture

Paper or pulp manufacture

Petroleum or kerosene refining, distillation, or derivation of by-product and/or storage

Power forge (riveting, hammering, punching, chipping, drawing, rolling or tumbling of iron, steel, brass, or copper, except as necessary incident of manufacture of which these processes form a minor part, and which are carried on without objectionable noise outside of the plant)

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Rayon manufacture

Rock crusher

Rolling mill

Rubber of gutta-percha manufacture or treatment

Salt works

Starch, glucose or dextrine manufacture

Stock yards

Stone quarry, mill or crusher

Storage or baling of rags, iron or junk

Sugar refining

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Article 7.

ENFORCEMENT

14-07-01 Building Official.

- a. Building Official. Except as otherwise provided herein, the Building Official shall administer and enforce the provisions of this chapter, including the receiving of applications, the inspection of premises and the issuing of building permits. No building permit or certificate of occupancy shall be issued by him except where the provisions of this chapter have been complied with.
- b. Building Permit Required. No building or structure shall be erected, added to or structurally altered until a permit therefor has been issued by the Building Official. All applications for such permits shall be in accordance with the requirements herein and, unless upon written order of the Board of Adjustment, no such building permit or certificate of occupancy shall be issued for any building where said construction, addition or alteration or use thereof would be in violation of any of the provisions of this chapter.
 1. Matter Accompanying Application: There shall be submitted with all applications for building permits one (1) copy of a layout or plot drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this Ordinance.
 2. Payment of Fee. The fee for a building permit shall be paid at the time of filing the application and the permit fee shall be calculated as set forth in 6-02-03 of this code. If the permit is denied the fee shall be returned to applicant.
- c. Certificates of Occupancy.
 1. No land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Building Official, stating that the building or proposed use thereof complies with the provisions of this chapter.

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2. No nonconforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued by the city auditor therefor.
3. All certificates of occupancy shall be applied for co-incident with the application for a building permit. Said certificate shall be issued within twenty (20) days after the erection or alteration shall have been approved.
4. The Building Official shall maintain a record of all certificates and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected.
5. No permit for excavation for, or the erection or alteration of or repairs to any building, shall be issued until an application has been made for the certificate of occupancy.
6. Under such rules and regulations as may be established by the Board of Adjustment and filed with the Building Official, a temporary certificate of occupancy for not more than thirty (30) days for a part of a building may be issued by the Building Official.

Article 8.

BOARD OF ADJUSTMENT

14-08-01 Creation of Board.

- a. Creation, Appointment and Organization. A Board of Adjustment is hereby created. Said board members shall be appointed by the President and confirmed by the Board of City Commissioners and shall consist of five (5) members for three (3) year terms. The board shall elect a chairman from its membership, shall appoint a secretary and shall prescribe rules for the conduct of its affairs.
- b. Powers and Duties. The Board of Adjustment shall have all the powers and duties prescribed by North Dakota law and by this chapter, which are more particularly specified as follows:
 1. Interpretation. Upon appeal from a decision by the Building Official to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary, if there is uncertainty with respect thereto.

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2. Variances. To vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. In granting any variance, the Board of Adjustment shall prescribe any conditions that it deems to be necessary or desirable. However, no variance in the strict application of any provision of this chapter shall be granted by the Board of Adjustment unless it finds:
 - a. That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.
 - b. That, for reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the board is the minimum variance that will accomplish this purpose.
 - c. That the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of adjoining buildings and those in the vicinity, the board, in determining its finding, shall take into account the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.

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- c. Procedure. The Board of Adjustment shall act in strict accordance with the procedure specified by North Dakota law and by this chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the board. Every appeal or application shall refer to the specific provision of the Ordinance involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Every decision of the Board of Adjustment shall be by resolution, each of which shall contain a full record of the findings of the board in the particular case. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of the Building Official or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance. Each such resolution shall be filed in the office of the city auditor.

- d. Notice of Hearing. No action of the board shall be taken on any case until after due notice has been given to the parties and public hearing has been held.

14-08-02 Amendments.

The Board of City Commissioners may, from time to time, amend this Chapter by supplementing, changing, modifying or repealing any of the regulations, restrictions or other provisions thereof, or of the district map, or the districts on said map, or of the boundaries of such district. A proposed amendment may be initiated by the said board upon its own motion, or upon receipt therefor from the city zoning commission, or upon receipt of a petition therefor from any interested person or persons or their agents.

- 1. Report by City Zoning Commission - Public Hearing. The Board of City Commissioners shall require a report from the city zoning commission on a proposed amendment before taking final action thereon. The city zoning commission shall thereupon make a tentative report and hold a public hearing thereon with notice the same required for a public hearing by the governing body, before submitting its final report. Such final report shall be submitted within ninety (90) days after the time of referral of the proposed amendments to the city zoning commission unless the governing body is agreeable to an extension of time.

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2. Action by Board of City Commissioners - Public Hearing. After the receipt of the required final report on any amendment from the city zoning commission, or in the event of the failure of the city zoning commission to so report within ninety (90) days following the time of referral of the proposed amendment of the city zoning commission, the Board of City Commissioners shall hold a public hearing, after which the proposed amendment may be passed. Notice of said hearing shall be published once a week for two successive weeks prior to the time set for said hearing in the official newspaper of the city. Such notice shall contain the following items:
 1. The time and place of the hearing.
 2. A description of any property involved in any zoning change, by street address if streets have been platted or designated in the area affected.
 3. A description of the nature, scope, and purpose of the proposed regulation, restriction, or boundary.
 4. A statement of the times at which it will be available to the public for inspection and copying at the office of the city auditor.

3. Vote After Protest. If a protest against a change, supplement, modification, amendment or repeal is filed and signed by owners of twenty percent (20%) or more:
 - a. If the area of the lots included in such proposed change;
or
 - b. Of those immediately adjacent in the rear thereof extending one hundred fifty (150) feet therefrom; or
 - c. Of those directly opposite thereto extending one hundred fifty (150) feet from the street frontage of such opposite lots; or
 - c. Of those directly along side of said property extending one hundred fifty (150) feet from the subject property in either direction.

The amendment shall not become effective except by the favorable vote of four (4) members of the Board of City Commissioners.

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14-08-03 Enforcement.

The erection, construction, reconstruction, alteration, repair, conversion or maintenance of any building or structure, or the use of any building, structure or land, in violation of this article) or of any regulation, order) requirement, decision or determination made under authority conferred by this article, shall constitute the maintenance of a public nuisance and any appropriate action or proceeding may be instituted by the City, through any administrative official, department, board or bureau charged with the enforcement of this article.

1. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;
2. To restrain, correct or abate such violation;
3. To prevent the occupancy of the building, structure or land;
or
4. To prevent any illegal act, conduct, business or use in or about such premises.

A violation of any provision of this article or a violation of or refusal or failure to comply with any regulation, order, requirement, decision or determination made under authority conferred by this article shall be punishable as provided in Section 2-01-07 of this code.

CHAPTER 15

AVIATION

Article 1.

AIRPORT COMMISSION

15-01-01 Establishment.

There is hereby established an Airport Commission for the City of New Rockford.

15-01-02 Membership.

The membership of the Airport Commission shall consist of five members, three of whom shall be appointed by the President of the Board of City Commissioners upon the approval by the Board of City Commissioners for terms of three years each, expiring on May 1 of the final year of the term, one of which shall be a member of the local CAP group, or if none is in existence, a local flying group. Upon the passage of this ordinance the President shall appoint one member for one year, one member for two years, and one member for three years, and thereafter one member each year. The member whose term shall expire earliest shall be the chairman of the Commission.

15-01-03 Authority and Duties.

A. The Airport Commission shall have no administrative or executive capacity, but shall serve as an advisory branch of the Board of City Commissioners.

B. The duties of the Airport Commission shall be:

- (1) To recommend rules and regulations concerning the operation of the Airport;
- (2) To consider and recommend long-range improvements of Airport facilities;
- (3) To recommend current improvements at the Airport;
- (4) To assist in the preparation of the budget for the Airport;
- (5) To assist in the preparation of leases and other agreements relative to the Airport and its uses;
- (6) To supervise the expenditures of funds authorized by the Board of City Commissioners for Airport purposes;

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- (7) To serve as a liaison between the Board of City Commissioners and State and Federal Aeronautics Commissions; and
- (8) To do such other things as may from time to time be directed or authorized by the Board of City Commissioners.

5-01-04 Secretary: Salary.

The Airport Commission shall appoint a secretary who shall not be required to be a member of the Commission. The secretary shall receive no salary but shall be entitled to reimbursement for expenses incurred.

Article 2.

AIRPORT ZONING

5-02-01 Short Title.

This ordinance shall be known and may be cited as the "Airport Zoning Ordinance of the City of New Rockford, North Dakota."

15-02-02 Definitions.

As used in this ordinance, unless the context otherwise requires:

- A. "Airport" means the New Rockford Municipal (Tomlinson) Airport.
- B. "Airport hazard" means any structure or tree or use of land which obstructs the air space required for the flight of aircraft in landing or taking-off at the airport or is otherwise hazardous to such landing or taking-off of aircraft.
- C. "Non-conforming used means any structure, tree or use of land which does not conform to a regulation prescribed in this ordinance or an amendment thereof, as of the effective date of such regulation.
- D. "Person" means any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
- E. "Structure" means any object constructed or installed by man, including without limitation, buildings, towers smokestacks, and overhead transmission lines.

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- F. "Landing area" means the area of the airport used for the landing, take-off, or taxiing of aircraft.
- G. "Tree" means any object of natural growth.

15-02-03 Zones and Map.

- A. For the purpose of this ordinance, all the land lying within an area of two (2) miles of the landing area of the airport is divided into six (6) zones as follows:
 - (1) "L" -Landing Zones
 - (2) "IA" -Instrument Approach Zones
 - (3) "NIA" -Non-instrument Approach Zones
 - (4) "LT" -Landing Transition
 - (5) "AT" -Approach Transition Zones
 - (6) "T" -Turning Zones
- B. The Boundaries of these zones are hereby established as shown on a map entitled New Rockford Municipal Airport Zoning Map dated February 14, 1950, which accompanies and is hereby made a part of this ordinance, and as the same may be amended and supplemented.

15-02-04 Height Limits.

- A. Except as otherwise provided in this ordinance, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by this ordinance to a height in excess of the height limit hereby established for such zone.
- B. The height limit for each type of zone is hereby established as follows:
 - (1) "L" (Landing Zone) -Nothing above the datum plane, except as required and as necessary and incidental to airport operations or recommended by or in accord with the rules of the Civil Aeronautics Administration.
 - (2) "IA" (Instrument Approach Zones) - One foot of height for every fifty (50) feet of the shortest distance the structure or tree is from the inner boundary of the approach zone or the line of such boundary extended.

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- (3) "NIA" (Non-Instrument Approach Zones) - One foot of height for every forty (40) feet of the shortest distance the structure or tree is from the inner boundary of the approach zone or the line of such boundary extended.
- (4) "LT" (Landing Transition Zones) - One foot of height for every seven (7) feet of the shortest distance the structure or tree is from the boundary of the nearest "L" zone.
- (5) "AT" (Approach Transition Zone) - The sum of (a) the height permitted in the adjoining approach zone for the same distance from the inner boundary thereof, plus (b) one (1) foot of height for each seven (7) feet such structure or tree is distant from the side boundary of the adjoining approach zone measured horizontally along a line perpendicular to the center line of the adjoining approach zone.
- (6) "T1" (Turning Zone) - 150 feet.

15-02-05 Use Restrictions.

Except as otherwise provided in this ordinance, it shall be unlawful to put any land located within any zone hereby created to any of the following prohibited uses:

- A. Transformer Stations.
- B. High Power Transmission Lines.
- C. Manufacturing establishments or other uses which produce smoke interfering with the safe use of the Airport.
- D. All plants and business of every kind which emit or discharge gases and odors that would interfere with the health or safety of the public in the use of the Airport.
- E. Businesses or structures of any kind that may be detrimental or injurious to the health, safety, and general welfare of the public in the use of the Airport.
- F. Any other use which would create electrical interference with radio communications between the Airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the Airport, impair visibility in the vicinity of the Airport, or otherwise endanger the landing, taking-off, or maneuvering of aircraft.

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15-02-06 Spacing Adjacent Airports.

- A. Within a radius of eight (8) miles from the center of New Rockford Municipal (Tomlinson) Airport no airport of Class 1 or greater, as hereinafter defined, shall be established unless permit therefor shall have been applied for and granted, in accordance with the provisions of this ordinance.
- B. Except as otherwise provided, the minimum distance between New Rockford Municipal (Tomlinson) Airport and any other airport hereafter established, measured from center to center, shall be no less than provided in the following schedule:

<u>Class of Other Airport</u>	<u>Distance from New Rockford Municipal (Tomlinson) Airport</u>
1	3 miles
2	4 miles
3	5 miles
4	6 miles

- C. Airport classification for the purpose of this shall be in accord with the following schedule:

<u>Length of Longest Runway</u>	<u>Class</u>
Under 3301 feet	1
3301 feet to 4300 feet	2
4300 feet to 5000 feet	3
Over 5000 feet	4

- D. Exceptions to the spacing requirements hereinbefore provided in this Section may be granted by the Board of Adjustment, which is hereby authorized to allow lesser distances between the New Rockford Municipal Airport and any other airport proposed to be established, but only after public hearing duly held in accord with the provisions of this ordinance, and where, owing to special conditions, the Board of Adjustment duly finds that a literal enforcement of these provisions would result in unnecessary hardship and such variance would not be contrary to the public interest.

Prior to granting any such exception or variance, the Board of Adjustment shall, for the purpose of study and recommendation, refer the matter to the Civil Aeronautics Administration and to any aviation commission, airport zoning commission, and any local planning body having jurisdiction within the area affected.

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If any of the aforementioned bodies to whom the matter shall have been referred, does not within forty-five (45) days transmit a report to the Board of Adjustment, then it shall be deemed to have approved the proposal, provided however, that upon request of any said body, the Board of Adjustment shall grant a reasonable extension of such time.

In granting such exception or variance the Board of Adjustment shall impose special conditions which will ensure that the Public interest is maintained.

15-02-07 Non-Conforming Uses.

The regulations prescribed in Sections 15-02-04 and 15-02-05 of this ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date hereof, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior "to the effective date of this ordinance, and is diligently prosecuted and completed within two years thereof.

15-02-08 Variances.

Any person desiring to erect any structure or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with the regulations prescribed in this ordinance, may apply for a variance therefrom. Such variance shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this ordinance.

15-02-09 Permits.

- A. Future Uses. No material change shall be made in the use of land, and no structure or tree shall be erected, altered, planted, or otherwise established, in any airport approach zone or airport turnin9 zone, unless a permit therefor shall have been applied for and granted. Each such application shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit applied for shall be granted.

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- B. Existing Uses. Before any existing use, structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, within any airport approach zone or airport turning zone, a permit must be secured authorizing such replacement, change or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this ordinance or than it is when the application for a permit is made. Except as indicated, all applications for a permit for replacement, change or repair of existing use, structure, or tree shall be granted.

15-02-10 Hazard Marking and Lighting.

Any permit or variance granted under Section 15-02-08 or 15-02-09 may, if such action is deemed advisable to effectuate the purpose of this ordinance and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the City, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

15-02-11 Appeals.

- A. Any person aggrieved or taxpayer affected by any decision of the City Auditor made in his administration of this ordinance, if of the opinion that a decision of the City Auditor is an improper application of this ordinance, may appeal to the Board of Adjustment for which provision is made in Section 15-02-13.
- B. All appeals taken under this section must be taken within thirty days by filing with the City Auditor and the Board a notice of appeal in writing specifying the grounds thereof. The City Auditor shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- C. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the City Auditor certifies to the Board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings

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shall not be stayed otherwise than by order of the Board on notice to the City Auditor and on due cause shown.

- D. The Board shall fix a reasonable time for the hearing of the appeal, give due notice and public notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
- E. The Board may, in conformity with the provisions of this ordinance reverse or affirm, wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the City Auditor.
- F. The Board shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing or affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this ordinance.
- G. The concurring vote of a majority of the members of the Board shall be sufficient to reverse any order, requirement, decision, or determination of the City Auditor, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to affect any variation in this ordinance.

15-02-12 Administrative Agency.

The City Auditor is hereby designated the administrative agency charged with the duty of administering and enforcing the regulations herein prescribed. The duties of the City Auditor shall include that of hearing and deciding all permits under Section 15-02-09, but he shall not have or exercise any of the powers or duties herein delegated to the Board of Adjustment.

15-02-13 Board of Adjustment.

- A. There is hereby created a Board of Adjustment to have and exercise the following powers:
 - (1) To hear and decide appeals from any order, requirement, decision, or determination made by the City Auditor in the enforcement of this ordinance;

- (2) To hear and decide special exceptions to the terms of this ordinance upon which such Board may be required to pass by subsequent ordinances;
- (3) To hear and decide specific variances under Section 15-02-08.

B. The Board of Adjustment shall consist of five members, each to be appointed for a term of 3 years and to be removable for cause by the President upon written charges and after public hearing. In the first instance, one member shall be appointed for a term of 3 years, two for a term of 2 years, and two for a term of 1 year. Thereafter each member appointed shall serve for a term of 3 years or until his successor is duly appointed and qualified.

C. The Board shall adopt rules for its governance and procedure in harmony with the provisions of this ordinance. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman) or in his absence) the acting chairman) may administer oaths and compel the attendance of witnesses. All hearings of the Board shall be public. The board shall keep minutes of its proceedings) showing the vote of each member upon each question) or if absent or failing to vote) indicating such fact) and shall keep records of its examinations and other official actions) all of which shall immediately be filed in the office of the Board and shall be a public record.

15-02-14 Judicial Review.

Any person aggrieved, or taxpayer affected, by any decision of the Board of Adjustment, may appeal to the District Court as provided under North Dakota law.

15-02-15 Penalties.

Each violation of this ordinance or of any regulation, order or ruling promulgated hereunder shall be punishable by a fine of not more than \$500.00 or imprisonment for not more than 30 days, or both such fine and imprisonment, and each day a violation continues shall be a separate offense.

15-02-16 Conflicting Regulations.

Where this ordinance imposes a greater or more stringent restriction upon the use of land than is imposed or required by any other ordinance or regulation, the provisions of this ordinance shall govern.

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15-02-17 Severability.

If any of the provisions of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

CHAPTER 16

MOBILE HOMES AND TRAVEL TRAILERS

Article 1.

IN GENERAL

16-01-01 Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

- A. Mobile Home: A mobile or portable dwelling constructed to be towed on its own chassis, connected to utilities, not placed on a permanent foundation, and used for year-round living. It can consist of one (1) or more units that can be telescoped when towed, or two (2) or more units separately towable but designed to be joined into one (1) integral unit.
- B. Mobile Home Lot: A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- C. Mobile Home Park: A plot of ground under single ownership or management which has been planned and improved for the placement of at least ten (10) mobile homes which are used for dwelling or sleeping purposes, regardless of whether or not a charge is made for such accommodation.
- D. Travel Trailer: Any of the following:
 - (1) Travel Trailer: A towable, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses.
 - (2) Motorized Home: A portable, temporary dwelling to be used for travel, recreation, and vacation; constructed as an integral part of a self-propelled vehicle.
 - (3) Camping Trailer: A canvas, folding structure mounted on wheels and designed for travel, recreation, and vacation use.
- E. Travel Trailer Park: A plot of ground under single ownership or management which has been planned and improved for the parking of at least ten (10) travel trailers regardless of whether or not a charge is made for such accommodation.
- F. Travel Trailer Space: A parcel of land in a travel trailer park for the parking of a single travel trailer and the exclusive use of its occupants.

MOBILE HOMES AND TRAVEL TRAILERS

16-01-02 Location of Mobile Home and Travel Trailer.

Mobile homes or travel trailers may only be parked in the City of New Rockford within a licensed mobile home park or travel trailer park.

16-01-03 Exceptions - Location Outside of Parks or Courts.

- A. It shall be unlawful within the City limits of New Rockford for any person to park a mobile home or a travel trailer on any street, alley, highway, or other public place or on any tract of land owned by any person, occupied or unoccupied, within the City except as provided in this section.
- B. Emergency or temporary stopping or parking is permitted on any street, alley, or highway for no longer than twenty-four (24) hours subject to any other or further traffic or parking limits imposed on such streets, alleys, or highways. Provided, mobile homes or travel trailers may be used for temporary construction offices and sales rooms.
- C. Mobile homes or travel trailers may be parked upon private premises located outside the fire limits of the City, if such mobile home or travel trailer is vacant and not used for human habitation. No mobile home or travel trailer shall be occupied or used for human habitation unless located in a licensed mobile home park or travel trailer park.

16-01-04 Permanent Foundations Prohibited.

No mobile home or travel trailer shall be placed on a permanent foundation.

Article 2.

LICENSE REQUIREMENTS

16-02-01 Required.

It shall be unlawful for any person to maintain or operate within the City a mobile home park or travel trailer park unless such person first obtains license therefor.

16-02-02 Application.

Application for a license for a mobile home park or travel trailer park shall be filed with the City Building Official. Such application shall contain the following:

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- A. Name and address of the applicant and required fee.
- B. The location and legal description of the mobile home park or travel trailer park.
- C. A complete plan, in case of a new mobile home park or travel trailer park, showing compliance with the City's zoning ordinance. Such information shall include a complete set of plans and specifications of all required buildings, utilities, automobile off street parking facilities, recreational areas, and other provisions of the zoning ordinance. Such plans to be provided by the owner or operator.

16-02-03 Condition for Issuance.

- A. If the proposed mobile home park or travel trailer park will be in compliance with the provisions of this chapter and all other applicable ordinances and statutes, the Board of City Commissioners may approve the application and upon completion of the park according to the plans shall issue the license.
- B. The Board of City Commissioners may approve the operation and issue the renewal of an existing park license, providing such application includes certificates issued within thirty (30) days preceding such application signed by the Fire Chief that such mobile home park and mobile homes parked therein or travel trailer parks or trailers parked therein comply with all provisions of the Fire Prevention Code and a certificate signed by the Building Official issued within thirty (30) days preceding such application that the mobile home park and mobile homes parked therein and travel trailer park or trailers parked therein comply with all applicable provisions of the zoning ordinance and this chapter.

16-02-04 Inspection; Semiannual Inspections.

Prior to issuing a license under the provisions of this chapter, each mobile home park or travel trailer park shall be inspected. Following the issuance of a license such inspection shall be made at least every six (6) months by the Board of Health. If any violation of the requirements, as set forth in this article, exists, the operator shall be notified within three (3) days. Said notice shall include all necessary information as to the correction required.

A second inspection shall be required by the Board of Health after the time necessary to remedy the violation but not before one (1) week.

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This reinspection shall be used to determine compliance with the requirements of this chapter. Any repeated violation of the requirements of this chapter on such reinspection shall call for the suspension of the license by the Board of City Commissioners.

16-02-05 Reinspection.

The owner or operator of a mobile home park or travel trailer park whose operation fails to comply with the first certification by the City Fire Department and the Board of Health may request additional inspection.

16-02-06 Duration.

Every license issued under the provisions of this chapter shall be valid for a period of time from July 1st of each year to June 30th of the following year.

16-02-07 Posting of License.

The license certificate issued under the provisions of this chapter shall be conspicuously posted in the office of or on the premises of the mobile home park or travel trailer park at all times.

16-02-08 Register of Occupants.

It shall be the duty of the licensee to keep a register containing a record of all mobile home owners and occupants located within the mobile park or travel trailer park. The register shall contain the following information:

- A. Name and address of each occupant.
- B. License number and owner of each mobile home or travel trailer and the vehicle by which it is towed.
- C. The state issuing the licenses.
- D. The dates of arrival and departure of each mobile home and travel trailer.

The park shall keep the register available for inspection at all times by law enforcement officers, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three (3) years following the date of registration.

MOBILE HOMES AND TRAVEL TRAILERS

16-02-09 Revocation of License.

The license to operate a mobile home park or travel trailer park shall be revoked by the Board of City Commissioners whenever the operator of said park fails to operate the facility in compliance with all provisions of this article or upon repeated violations thereof.

16-02-10 License Fees.

The annual license fee for each mobile home park or travel trailer park shall be Fifteen Dollars (\$15.00) for each block of thirty (30) spaces or fraction thereof. The fee for the transfer of a license as provided in this chapter shall be Five Dollars (\$5.00).

Article 3.

TECHNICAL REQUIREMENTS

16-03-01 Compliance with Zoning Ordinance.

Each mobile home park or travel trailer park licensed under the provisions of this article shall comply with all applicable provisions of the City zoning ordinance.

16-03-02 Minimum Number of Spaces.

No mobile home park or travel trailer park shall provide spaces for less than ten (10) mobile homes or travel trailers.

16-03-03 Designation of Spaces.

Each mobile home space or travel trailer space in a licensed mobile home or travel trailer park shall be clearly defined, designated, and marked.

16-03-04 Utility Connections Restricted.

The connection and disconnection of water, fuel, and electric service will be under the supervision of the park owner or his authorized agent.

16-03-05 Electrical Service.

- A. Each new or altered mobile home space shall be provided with a sixty (60) ampere 120/240 volt service having a maximum capacity of one (1) fifty (50) ampere four (4) wire 240 volt receptacle and one (1) twenty (20) ampere 120 volt three (3) wire grounding receptacle. Such installation to conform to provisions of the State Electrical Code.

MOBILE HOMES AND TRAVEL TRAILERS

- B. Each mobile home shall be grounded through the use of a ground rod or a four (4) wire grounding system.
- C. Each new and altered mobile home space shall comply with all provisions of the State Electrical Code and the four (4) wire system.
- D. Each new or altered travel trailer space shall be provided with a thirty (30) ampere 120/240 volt service having a minimum capacity of one (1) thirty (30) ampere 120 volt three (3) wire grounding receptacle and one (1) twenty (20) ampere 120 volt three (3) wire grounding receptacle. The design and installation of such service shall conform to the provisions of the State Electrical Code.
- E. Each travel trailer shall be grounded through the use of a ground rod or the three (3) wire grounding system.
- F. Each existing mobile home space shall be provided with an electric service of adequate size to serve the mobile home service and be properly installed and maintained.

16-03-06 Gas Service.

Each gas service line to a mobile home shall be provided with a shutoff valve located outside the mobile home and at least one (1) foot above grade. In all other respects the installation, maintenance, handling, and equipment for natural gas, L-P gas, propane, or fuel oil, when used within a mobile home, shall conform to the requirements of the City set forth in the City code, ordinances, or other regulations.

16-03-07 Water Supply.

- A. A mobile home park or travel trailer park shall be provided with an adequate supply of safe water complying with the State Health Department standards for drinking and domestic use.
- B. An adequate supply of water shall be provided at all times in the service buildings for bathing, washing, and laundry facilities. The water system and plumbing facilities shall be installed in compliance with the State Plumbing Code.

16-03-08 Water, Sewer Connections at Spaces.

Each mobile home space shall be provided with sewer and water connections, such plumbing facilities to conform to the State Plumbing Code.

MOBILE HOMES AND TRAVEL TRAILERS

16-03-09 Sanitary Service Facilities--Travel Trailer Parks.

Each travel trailer park shall provide the following facilities:

- A. Each travel trailer park shall be provided with one (1) or more easily accessible water supply outlet for filling travel trailer water storage tanks. Such water supply outlets shall be protected against the hazards of back flow and back siphonage.
- B. Each travel trailer park or dependent mobile home park shall provide the following sanitary facilities for the occupants: For each fifteen (15) spaces or fraction thereof, one (1) stool, one (1) lavatory, and one (1) bathtub or shower for each sex. Stools shall be in separate compartments with self-closing doors. The shower stalls shall be of an individual type. Toilet rooms shall have soundproof walls and toilet rooms may be located in the same structure containing laundry facilities if separated therefrom by soundproof walls.
- c. The toilet room shall be screened to prevent view of the interior when the exterior door is open.
- D. Each travel trailer park or dependent mobile home park shall be provided with laundry facilities at a ratio of one (1) double laundry tub and ironing board or equivalent for each twenty (20) spaces or fraction thereof and adequate drying spaces or dryers shall be provided.

16-03-10 Construction of Service Buildings:

The building or buildings housing the toilet room and/or laundry facilities shall be a permanent structure. Interior surfaces shall be moisture resistant, readily cleanable surfaces.

16-03-11 Sanitary Stations in Travel Parks.

A sanitary station shall be provided in each travel trailer park consisting of at least a trapped four (4) inch sewer rise pipe surrounded at the inlet end by a concrete apron sloped to the drain and a water outlet with the necessary appurtenances and pressure to permit a periodic washdown of the adjacent area. A sanitary station shall be screened from other activities by visual barriers such as fences, walls, etc., and shall be separated from any trailer space by a distance of at least fifty (50) feet.

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16-03-12 Storm Sheds.

Storm sheds shall be of standard construction and shall not obstruct any exitway or exceed one hundred twenty (120) square feet in area. Not more than one (1) storm shed may be constructed or attached to any mobile home.

No storm shed or addition shall be of a design that will obstruct the required exitways of the mobile homes and no more than one (1) storm shed per trailer shall be provided.

16-03-13 Garbage Storage and Disposal.

An adequate supply of covered garbage containers shall be provided in each park located not more than two hundred (200) feet from any space. If cans are provided, they shall be maintained in a sanitary condition and stored on racks as required by this code or city ordinance.

16-03-14 Fire Protection.

Every mobile home park or travel trailer park shall be equipped at all times with fire extinguishers in good working order as follows: two (2) fire extinguishers, one (1) Class A Water type and type B-C02 or dry chemical Type #-BC for every hundred (100) trailer spaces or fraction thereof. Such extinguishers may be located in the utility building.

16-03-15 Street Lighting.

All entrances, exits, lanes, and driveways between rows of mobile homes shall be lighted to provide an intensity of five (5) footcandles.

16-03-16 Mobile Home and Trailer Stands.

Each mobile home and travel trailer shall be provided with a mobile home or travel trailer stand, such stand shall be at an elevation, distance, and angle relative to the street and driveway that placement and removal of the mobile home or trailer with a car, tow truck, or other customary moving equipment is practical.

The mobile home or trailer stand shall have a longitudinal grade of less than four percent (4%) and transverse crown or grade to provide adequate surface drainage. The stand shall be compacted and surfaced with a material which will prevent the growth of vegetation while supporting the maximum anticipated loads during all seasons.

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The mobile home or trailer stand shall have a size corresponding to the width and length of the mobile home or trailer that is to use it.

16-03-17 Alterations.

Existing mobile home or trailer parks shall not be enlarged or extensively altered unless such alteration complies with the provisions of this chapter.

CHAPTER 17

PARK DISTRICT

Article 1.

IN GENERAL

17-01-01 Creation of Park District.

The Board of City Commissioners of the City of New Rockford has heretofore created, and hereby reaffirms, a park district of the city, known as "Park District of the City of New Rockford" in accord with the laws of the State of North Dakota. The provisions of said state laws have been and are accepted by the city.

17-01-02 Boundaries of Park District.

All of the territory included within the corporate limits of the City of New Rockford, and all that property described as the N1/2SE1/4 and Auditor's Lots 5 & 6 of Section 20, Township 149 North, Range 66 West of the fifth principal meridian and such other areas as have been or may be in the future acquired by the park district under these ordinances and the state laws.

17-01-03 Ordinances.

The powers of the Board of Park Commissioners (as established under state law) shall be exercised by ordinance unless otherwise provided under state law. All ordinances shall be read twice, and at least eight days shall intervene between the readings. Ordinances shall be adopted by a yea and nay vote, shall be approved by the President, shall be published once in the official newspaper of New Rockford, and shall go into effect within three days after the publication thereof. The enacting clause of all ordinances shall be: "Be it enacted by the Board of Park Commissioners of the park district of the City of New Rockford." A copy of each ordinance passed shall be attached to this chapter under Appendix I of Chapter 17.

APPENDIX I

PARK ORDINANCES

The following ordinances are those enacted by the Board of Park Commissioners of the Park District of the City of New Rockford, North Dakota relating to use and care of parks. They are inserted and printed herein for the convenience of users of this Code:

Ordinance No.17.1-01

17.1-01-01 Scope.

The provisions hereof are enacted for the regulation of the use and care of the parks and trees of the park district of the city by the public, and nothing herein contained shall operate to restrain or hinder the park commission of the park district, or the individual members thereof, or the employees of such commission, in the performance of their official duties.

17.1-01-02 Penalty.

Any person found guilty of violating an ordinance of the park district of the city shall be punished by a fine of not more than Five hundred Dollars (\$500.00) or by imprisonment not to exceed thirty (30) days, for one offense or both such fine and imprisonment in the discretion of the Municipal Judge and the Municipal Judge shall have the power to suspend said sentence and to revoke the suspension thereof.

17.1-01-03 Meetings of Board.

The Board of Park Commissioners shall meet regularly at New Rockford City Hall on the first Tuesday of each month at the hour of 8:00 pm unless some other time or place shall specifically fixed by the Board.

17.1-01-04 Operation of Vehicles.

It shall be unlawful for any person to do or commit any of the following acts in any of the parks of the city's park district:

- A. Ride, drive, or operate any vehicle upon, any part of any park other than on the roads or driveways provided for such purposes or
- B. Ride, drive, or operate any vehicle in willful or wanton disregard of the rights or safety of others, or without due caution or circumspection, or at a speed or in a manner which endangers, or is likely to endanger, any person or property;

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provided, that subject to the foregoing provisions of this subdivision it shall be prima facie lawful for the driver of a vehicle to drive the same at a speed of fifteen (15) miles an hour, but in case such speed shall be unsafe it shall not be lawful.

For the purposes of this section the term "vehicle" shall include all vehicles propelled by human, animal, or mechanical power.

7.1-01-05 Prohibited Acts.

It shall be unlawful for any person to do or commit any of the following acts in any of the parks of the city's park district:

- A. Be intoxicated.
- B. Throw stones or missiles.
- C. Appear in a state of nudity or make any indecent exposure of his or her person.
- D. Play or engage in any game of chance or practice any trick, game, or device with intent to deceive or swindle.
- E. Carry, or discharge any dangerous or concealed weapons, or any firearms, gun, air rifle, slingshot, or other similar weapon.
- F. Hunt, trap or in any way catch, kill, or injure any animal or bird.
- G. Bathe in any water in or adjacent to a public park except when properly clothed and in such place as may be designated by the Board of Park Commissioners for this purpose.
- H. Permit any animal to run at large.
- I. Beg or tell fortunes or carry on any similar occupation.
- J. Write, paint or carve upon, or otherwise deface any tree, structure, furniture, or fixtures, or displace any furniture or fixture.
- K. Enter upon any portion of a park which may be temporarily closed to the public.
- L. Attach any guy wires, telephone, telegraph or electric wire, or any other wire, to any tree or shrub within any park.

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- M. Hitch any horse or other animal, except in such place as may be designated by the park commission for such purpose.
- N. Tear down, remove, cut or otherwise injure or destroy any gate or fence enclosing any of the public parks or grounds.
- O. Cut, pull, pluck, or otherwise injure any flowers, flowering plants, shrubs, or trees growing in any of the parks of such district.
- P. Throw, place, deposit or leave, or cause to be thrown, placed, deposited or left, in any of the public parks, any waste paper, excelsior, straw, hay, leaves, brush, weeds, dry grass, shavings, rags, or other combustible materials, or any animal or vegetable refuse or offal, except in receptacles which may be provided therefor.
- Q. Hold any picnic except in such places as may be designated therefor.
- R. Build any fire for any purposes, except in such places as may be designated by the Park Commission.
- S. Deposit any ashes or other refuse.
- T. Nail, paste up or otherwise post handbills, placards, or posters, or make, print or mark any word, character or advertisement of any kind upon any tree, plant, pole or post in any part of such district, or upon any vehicle therein, or scatter any handbills, placards, or posters in such park or upon any of the streets, ways or walks thereof.
- U. Injure or remove any sign or notice posted by order of the Board of Park Commissioners.
- V. Obstruct any roadway or path in any such park.
- W. Park any vehicle within such park in any place or manner except as may be designated by the Board of Park Commissioners.
- X. Be present in any park within the boundaries of the Park District as defined in 17-01-02, New Rockford City Ordinances after 11:00 P.M. or before 7:00 A.M. during which period of closing there shall not be parked or driven, any motor or other vehicle, excepting by police and park officials, within the said parks, nor shall said parks be used or occupied by any individual, other than police or park officials or

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employees, in the performance of their duties, during said I period of closing, unless special permission has been given in advance by the Board of Park Commissioners.

1-01-06 Protection of Vegetation.

Except as hereinafter provided, it shall be unlawful for any person willfully to cut, deface or in any way to injure any tree or sapling, standing or growing in any of the streets, alleys or public places of the park district.

1-01-07 Exception: Street Superintendent to Care for Berms and Trees.

The Park Commission of the Park District of the City of New Rockford hereby authorizes and empowers the Street Superintendent of City of New Rockford, or other city employees under his direction and supervision, to enter upon, take, and maintain possession of the berms and other areas of the Park District of said city, wherever situated, for the purpose of cultivating, planting, seeding, sodding, protecting, and maintaining and to plant, set out, cultivate, maintain, and care for the trees, plants, and shrubbery thereon.

17.1-01-08 Trees Approved for Planting.

The following trees may be used for planting in public streets and highways: American Elm, Hackberry, Green Ash, American Linden, Hard Maple, Oak, Black Walnut; and no tree not herein mentioned shall be planted without special permission from the Park District.

- A. The following trees may NOT be planted on the streets of New Rockford: Cottonwood; Evergreens, all varieties; Chinese Elm; Poplar; Willow; Soft Maple; Box Elder; Fruit trees. In order to achieve certain landscape effects, the Park District may at times use trees not generally recommended.

1-01-09 Shade Trees, Prescribed Height Over Streets and Sidewalks.

No person or persons, corporation, or otherwise whether owners or tenants of any property along the public streets and avenues of the city of New Rockford, shall permit any shade trees to project over the sidewalks, streets, and avenues of said city less than eight (8) feet height from such sidewalks, streets, and avenues.

17.1-01-10 Shade Trees, Duty to Trim.

It shall be the duty of all persons, possessing or occupying real property, to keep the trees and hedges and other growth along the public streets, avenues, and alleys adjoining such property trimmed in such a manner that the same shall not interfere with travel on said streets, avenues, and alleys nor obstruct the view in

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such a manner as to make it difficult for the users of said streets, avenues, and alleys to see approaching traffic, especially at intersections.

17.1-01-11 Use of Boulevard, by Whom and for What.

Any person owning or occupying any lot or land abutting on any public street may use for lawn or park purposes all ground between the line of such street, except such as may be required for lawful side and crosswalks, and may plant, cultivate, and maintain thereon, grass, shade, or ornamental trees, shrubbery and flowers, and may protect the same from injury by neat or suitable guards or railings. No person shall willfully injure any such grass, trees, shrubbery, flowers, guards, or railings.

During the progress of constructing public improvements along any such streets or avenues of the city, such ground may be temporarily used for the deposit of materials, and such work as may be necessary, under the direction of the City Engineer.

17.1-01-12 Activities for Which Permit Required.

It shall be unlawful for any person to do any of the following acts within any of the parks of the city's park district without first receiving a permit to do so from the president of the Board of Park Commissioners, or from some person authorized by such board to grant a permit, and the granting of a permit shall be conditioned upon the agreement of the applicant therefor to observe all regulations and requirements which may be prescribed within reference to the subject matter thereof, and for violation of such regulations or requirements any such permit may be cancelled by the Board of Park Commissioners:

- A. Maintain any refreshment stand or keep or offer any article of any character for sale, except with the written permission of the Board of Park Commissioners and only then after payment of the permit fee, the amount of which fee shall be in the sole discretion of said Board of Park Commissioners.
- B. Render any musical program.
- C. Post or display any sign or banner.
- D. Hold any public meeting or deliver any public address or participate in any parade or any other public demonstration.

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E. Solicit passengers for any vehicle for hire.

F. To use equipment of any kind or vehicles to amplify or project talking, singing, music, or noise of any kind.

17.1-01-13 Compensation of Park Commissioners.

Each member of the Board of Park Commissioners of the Park District of the City of New Rockford shall receive as compensation for services rendered such sums and amounts as may be, by resolution of the governing body of the municipality, fixed from time to time.

17.1-01-14 Ordinances in Conflict: Repealed.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

CHAPTER 18

WATER AND SEWERS

Article 1.

UTILITY ESTABLISHED

18-01-01 Water and Sewer Utility Created.

The waterworks and sewerage facilities now owned by the City of New Rockford or hereafter acquired, were and are hereby declared to be and to constitute a public utility of the City, to be held, operated, maintained, improved, extended and administered as a single undertaking to be known as the "water and sewer utility". The properties of said utility shall include all plants, systems, works, instrumentalities, equipment, materials, supplies, lands, easements, rights in land, water rights, contract rights, franchises, dams, reservoirs, sewage disposal plants, intercepting sewer, trunk connections, and all parts and appurtenances of the foregoing which are used or useful in connection with the obtaining of a water supply and the conservation, treatment and disposal of water for public and private uses and/or useful in connection with the collection, treatment and disposal of sewage, waste and storm waters.

18-01-02 Scope of Utility.

The properties of said utility and all future improvements, extensions and enlargements thereof, together with all cash and other assets held in the City's Water and Sewer Utility Fund and all moneys to be derived thereafter from the services, facilities, products and by-products of said utility, shall be and are hereby appropriated and dedicated to the purpose of insuring the public health, safety and welfare by furnishing and making available water and sewerage service to the City and its inhabitants and industries. Said utility shall at all times be under the management and control of the governing body of the City and shall by it be operated and maintained in such manner as to provide it service with maximum efficiency and at the minimum cost which is compatible with the plan of operation herein described.

18-01-03 Service Charges - Use Of.

Said utility shall at all times be so operated and maintained, and I rates and charges for its services, facilities, products and by-products shall be such, as to make the utility self-supporting and self-perpetuating. Such charges from time to time imposed and collected shall be made and kept adequate to pay as incurred all costs of operation and maintenance of said utility and to establish and maintain reasonable operating reserves; to produce net revenues which shall be sufficient at all times to pay promptly the principal and

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interest due on all obligations of the City incurred for the improvement, extension and enlargement of said utility, to the extent that such obligations are according to their terms payable from said net revenues, and to establish and maintain adequate reserves for the security of said obligations; and to produce surplus net revenues, over and above current principal, interest and reserve requirements, in aciation and replacement of the utility plus a reasonable return on the City's capital investment therein which surplus net revenues, when actually on hand, and to the extent that they are not required as a reserve for depreciation and replacement, may from time to time be appropriated by the governing board to payor contribute to the cost of any other City functions, subject to the limitations now hereafter prescribed by law.

The foregoing appropriations shall not, however, be deemed or construed to preclude the City from defraying any part or all of the expense of any improvement enlargement or extension of the water and sewer utility by the levy of special assessments or taxes or the issuance of general obligation bonds, whenever and to the extent that such action is authorized in the manner provided by law and is deemed fair and equitable by the governing body.

18-01-04 Policy on Improvements - Extensions.

It is hereby declared to be the policy of the City of New Rockford, subject to such modifications as shall be deemed by the governing body to be required by special circumstances in individual cases, and subject to such modifications as may hereafter be made by Ordinance amendatory hereof or supplemental hereto, that the cost of capital improvements, enlargements and extensions of said utility shall be paid in the following manner:

1. Where water mains not exceeding six (6) inches or sanitary sewer mains not exceeding eight (8) inches in diameter are installed adjacent to residential properties, and where water mains not exceeding eight (8) inches or sewer mains not exceeding ten (10) inches in diameter are installed adjacent to commercial properties, the total cost thereof shall be assessed against the properties abutting on such improvements, in sums proportionate to and not exceeding the total benefits determined to be derived therefrom by the respective properties. Water and sewer mains of the dimensions above described are referred to herein as "lateral" mains, and other mains are referred to as "trunk" mains .
2. Where a trunk main is installed, the governing body upon advice of the city engineer shall estimate the probable cost of construction of a lateral main at the same time and place,

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and such estimated cost shall be assessed against the properties abutting on such main and in the manner above provided.

3. Twenty (20) percent of the cost of any sanitary sewer in excess of the estimated cost of a lateral sewer at the same time and place shall be assessed against all properties determined by the governing body to require the immediate construction of such main as a trunk sewer, including properties abutting thereon and properties served or capable of being served by lateral sewers connected thereto, in amounts proportionate to and not exceeding the benefits determined to be derived by said respective properties from such trunk sewer.
4. The total cost of storm sewers shall be assessed against properties within the area determined to be benefited thereby, in amounts proportionate to and not exceeding the benefits determined to be derived therefrom by the respective properties.
5. Where a portion of the benefits of any of the foregoing improvements is deemed to accrue primarily to the City at large, a portion not exceeding twenty (20) percent of the cost thereof as determined by the governing body with the concurrence of the Board of Budget Review, may be paid by the levy of ad valorem taxes upon all property within the City over the same period as the levies of assessments for such improvements, or any portion of all of such cost may be paid out of current funds duly provided in the budget, or from the proceeds of general obligation bonds duly authorized by the electors.
6. Such portion of the cost of any improvement, extension or addition to the utility as is not paid by special assessments and taxes levied and actually collected in respect thereof shall be paid from the net revenues of the utility.
7. Where due to any error or omission or to any special circumstances a special assessment is not levied against any property benefited by an improvement at the time of the construction thereof in accordance with the program described in this section, the City reserves the right to levy a supplemental special assessment upon such property or to impose and collect a special charge for the connection of such property with the utility system in such amount as shall be required to pay its just share of the assessable cost of such improvement.

18-01-05 Utility Fund - Separate Accounts.

All moneys received by the City of New Rockford in respect of the

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services, facilities, products and by-products furnished and made available by said utility, except collections of special assessments and taxes appropriated to improvement district funds and moneys borrowed for capital improvements, and all money, receipts and returns received from any investments of such earnings, shall be paid into the treasury of the City and kept in a special fund which shall be permanently maintained on the books of the City, separate and distinct from other funds and designated as the Water and Sewer Utility Fund) in the records of which fund all receipts and disbursements of money on account of or in connection with the utility shall be entered and reflected; but moneys from time to time on hand therein shall always constitute public municipal funds and shall be deposited and their safekeeping secured like other city funds. Separate accounts within the Water and Sewer Utility Fund shall be permanently maintained for the purpose of segregating the revenues required to meet the several expenses and obligations of the utility, as provided below) and such revenues shall be administered and accounted for as follows:

1. Operation and Maintenance Account. There shall be credited at least once in each calendar month to the Operation and Maintenance Account of said fund, as a first lien and charge on the gross revenues of the utility such sum as shall be needed, over and above any credit balance then held therein, to pay all claims due which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of approximately one month and to maintain a reasonable reserve for contingencies. Moneys in said account shall be used only to pay expenses of the foregoing type, and not for repairs or replacements or for capital improvements properly chargeable to replacement and depreciation reserves or surplus funds.
2. Principal and Interest Account. The Principal and Interest Account of the Fund, created by resolution adopted _____, 19____, shall continue to be maintained as provided in that resolution until the payment in full of the improvement warrants issued against said fund.
3. Revenue Bond Account. The net revenues of the utility are herein defined as the aggregate of all sums on hand in the Water and Sewer Utility Fund from time to time in excess of the current requirements defined in (1) and (2) above. The entirety of the said net revenues shall be credited each month to the Revenue Bond Account of the Water and Sewer Fund until there shall have been credited within said account, and thereafter so much of the net revenues as shall be necessary to maintain at all times, a reserve in an amount at least

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equal to the sum of the principal and interest payments due within each next succeeding twelve (12) months period upon all revenue bonds of the City heretofore or hereafter issued and made payable from said accounts. After said reserve has been created, there shall continue to be credited out of the net revenues to the Revenue Bond Account each month, over and above sums required to maintain such reserve, an amount not less than one-twelfth (1/12) of the sum of the principal and interest to become due on all such revenue bonds within the then next succeeding twelve (12) months. Moneys in said account shall be used only for the payment of principal and interest as it becomes due on said revenue bonds, and said reserve shall be used for such purpose only when other moneys in the account are insufficient. All revenue bonds heretofore and hereafter issued and made payable from said account, subject to the limitations upon such issuance contained in Section (6) hereof, shall constitute a first lien and charge on the net revenues of said utility as hereinbefore defined without preference or priority of one bond over any other; provided that if at any time the moneys in the Revenue Bond Account should be insufficient to make all payments of principal and interest due on such revenue bonds, and cannot be made sufficient by transfer of moneys from the other accounts described below, the moneys available shall be first used to pay interest then accrued on all bonds payable from said account, and any excess moneys available shall be used to pay matured principal of such bonds in order of their maturity dates, provided that moneys available for payment of bonds maturing on the same date shall be prorated equally among such bonds.

4. Improvement Warrant Account. There shall also be maintained in said fund an Improvement Warrant Account, for the purpose of segregating net revenues required for the payment of any portion of the cost of improvements hereafter instituted, for which such revenues have been pledged in accordance with the provisions of 40-22-15 and 40-22-16 of the North Dakota Century Code of 1943. There shall be transferred from said account as required, to the fund of each improvement district for which such pledge has been made, .sums sufficient, together with tax and assessment collections held in such funds, to pay when due the principal and interest on all improvement warrants drawn upon such funds for the financing of such improvements. Moneys sufficient for the requirements of said improvement district funds shall be credited and paid into the Improvement Warrant Account out of the net revenues remaining from time to time after provision for the current requirements of the Revenue Bond Account, and the lien and charge on said net

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- revenues in favor of improvement warrants for the payment of which such pledges have been made shall be subordinate only to the lien and charge on said revenues in favor of revenue bonds payable from the Revenue Bond Account. In the event that moneys in the Improvement Warrant Account shall be insufficient for the making of all transfers required to be made to the several improvement district funds to which such pledges have been made, and cannot be made sufficient by the transfer of funds from the remaining accounts described below, the available moneys shall be apportioned first to the several improvement district funds in sums sufficient to pay interest then accrued on all warrants drawn on such district funds, and any remainder shall be applied in payment of matured principal of such warrants in order of the maturity dates thereof. As among warrants maturing on the same date, such available moneys shall 'be applied to the warrants of the several issues in proportion to the matured principal amount thereof for the payment of which taxes and assessments in the respective improvement funds are insufficient.
5. Replacement and Depreciation Account. Finally, there shall be maintained a Replacement-and-Depreciation Account, into which there shall be credited and paid as received, except as otherwise stated below, all net revenues in excess of the current requirements of the other accounts above described. In said account there shall be maintained such balances as the governing body shall from time to time determine to constitute any adequate reserve for depreciation and replacement of the utility, which reserve may be used to redeem prior to maturity obligations payable from the net revenues as and when the same become prepayable according to their terms, or to replace worn out or obsolete properties of the utility, or to make extensions, enlargements or improvements thereto. Any moneys in said account determined to be surplus to the immediate requirements therefor may be invested or may be transferred to other City funds in the discretion of the Board, in the manner and subject to the limitations set forth in Section 40-33-12 of the North Dakota Century Code; and any acts amendatory thereof or supplemental thereto.
 6. Moneys on Hand. The moneys on hand in any of the accounts of the Water and Sewer Utility Fund shall at all times be available and shall be used to the extent necessary to restore any deficiency in the funds on hand in any of the preceding accounts, in the order listed above, for the fulfillment of the requirements of such preceding accounts as herein defined.

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7. Additional Accounts. The City also reserves the right to create additional accounts within said Water and Sewer Utility Fund for the purpose of segregating any surplus net revenues which may be pledged and appropriated to the payment of obligations hereafter issued to finance improvements, enlargements or extensions of said utility, other than the obligations made payable from the Revenue Bond Account and the Improvement Warrant Account, pursuant to the authority for such issuance reserved in 15.0106 hereof, provided that moneys on hand in any such account shall at all times be available for and used to the extent necessary to meet the current requirements of all of the foregoing accounts except the Replacement and Depreciation Account.

18-01-06 Provisions for Financing Capital Improvements.

In borrowing money for capital improvement, extensions or additions to said utility, the following provisions shall at all times be observed:

1. For the purpose of this section, whenever the net revenues of the utility hereinabove appropriated to the Improvement Warrant Account are pledged to pay a portion of the cost of any improvement to be financed by improvement warrants, such warrants and the interest accruing thereon shall be deemed to be payable from said net revenues in the same proportion as that part of the cost payable from said net revenues bears to the principal amount of such warrants; and the portion of such costs payable from net revenues shall be deemed equal to the principal amount of the warrants less the principal amount of the taxes and assessments agreed to be levied for the payment thereof.
2. Except as provided in parts (3) and (4) below, no obligations shall be issued and made payable from the Revenue Bond Account or the Improvement Warrant Account at any time unless the net revenues of the utility, as defined in Section 15-01-05(3) hereof, received during the then next preceding fiscal year shall have been in an aggregate amount at least equal to one hundred twenty-five (125) percent of 'the average annual principal and interest payments due on all bonds payable from the Revenue Bond Account which are then outstanding or then to be issued, plus such percentage of the average of the annual principal and interest payments due on each issue of improvement warrants then outstanding or then to be issued as shall be payable from said net revenues, which averages shall be computed on the basis of the principal and interest payments due in the fiscal years of the then remaining term of all such

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revenue bonds and improvement warrants then outstanding. For the purpose of such computation, whenever rates for water and sewerage service have been changed in the course of any fiscal year, the net revenues for such year shall be deemed to be those which would have been received if such amended rates had been in effect during the entirety of such year, based upon the actual quantities of service furnished to each class of customers and the actual expenses of the utility during such year; provided that in no case shall the net revenues so computed be deemed to exceed one hundred twenty-five (125) percent of the net revenues actually received during such year.

3. Refunding revenue bonds may be issued for the purpose of pre-paying and refunding bonds payable from the Revenue Bond Account when and as they become prepayable according to their terms, in the manner and to the extent permitted by law, provided that such refunding revenue bonds shall be subject to the requirements set forth in part (2) hereof, as applied to the past net revenues and future principal and interest requirements as of the date of the issuance of such refunding revenue bonds. However, the City shall and does hereby also reserve the right and privilege of issuing refunding revenue bonds, when permitted by law, for the maturities of any bonds payable from the Revenue Bond Account in the Revenue Bond Account are insufficient, and cannot be made sufficient by transfer of moneys from other accounts, and such refunding revenue bonds shall be payable from the Revenue Bond Account on a parity as to interest with all then outstanding bonds payable therefrom, but the maturities of such refunding revenue bonds shall be subsequent to the maturities of all such outstanding bonds. Nothing herein shall be deemed to require the holder of any revenue bond to accept a refunding revenue bond in exchange therefor.
4. The City also reserves the right and privilege of issuing refunding improvement warrants in the manner and to the extent provided in Chapter 40-27 of the North Dakota Century Code and acts amendatory thereof and supplemental thereto. The lien and charge of such refunding warrants on the net revenues appropriated to the Improvement Warrant Account shall be the same as that in favor of the improvement warrants refunded thereby; provided that for the purpose of the computations directed to be made in this section, the maturities and the rate or rates of interest payable on such refunding warrants shall be substituted for the maturities and interest rates of the improvement warrants refunded thereby.

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5. Nothing herein shall be deemed to affect the obligation of the City, under the laws of the State of North Dakota, to levy ad valorem taxes upon all taxable property within its corporate limits for the purpose of paying a deficiency, if any, in the fund of any improvement district, at the time of the maturity of the last warrant drawn thereon, or at such earlier time as may be hereafter directed by such laws; provided that it shall be the policy of the City that the amounts of any deficiency tax levies so made shall be restored to the general funds of the City out of any surplus net revenues thereafter received, over and above requirements of the several accounts of the Water and Sewer Utility Fund as stated in Section 18-01-05 hereof.
6. Except as hereinbefore authorized, no obligation of any kind shall be issued and made payable from said net revenues unless the lien thereof is expressly made subordinate and junior to the lien and charge on said net revenues in favor of all revenue bonds and improvement warrants payable from the Revenue Bond Account and the Improvement Warrant Account.

18-01-07 Agreements with Bond and Warrant Purchasers.

The City shall and does hereby covenant and agree with the original purchaser and each holder from time to time of each bond or warrant issued and made payable from the Revenue Bond Account or the Improvement Warrant Account, as follows:

1. It will complete all improvements financed by the issuance of such obligations with due diligence and with the greatest economy consistent with good workmanship and efficient results and will do so without creating or permitting the creation of any liens or encumbrances on said utility or on the revenues thereof other than the liens and charges of said revenues expressly authorized in this article.
2. As long as any obligations payable from said accounts are outstanding, it will continue to own and operate said utility as a municipal utility, free from all competition as to the services thereby provided and in good and efficient operating condition.
3. It will at all times maintain a schedule of rates, charges and rentals for all services, facilities, commodities and benefits furnished by said utility and will impose and collect the same in amounts at least sufficient to make the minimum payments into the respective accounts of the Water and Sewer Utility Fund as specified in Section 15-01-05 hereof, and will revise

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such schedules in such manner and whenever and as often as needed to perform this covenant.

4. Under each such schedule, the City shall be obligated to pay and will pay from its other funds to the Water and Sewer Utility Fund a fair and equitable amount for any and all services, facilities, commodities and benefits furnished to the City or any of its departments by the utility.
5. It will at all times maintain books of account adequate to all receipts and disbursements of the City respecting the utility and application of such receipts to the purposes of the several accounts described in Section 15-01-05 hereof, which books of account shall be open to inspection by the holder of any obligation payable from the Revenue Bond Account or the Improvement Warrant Account at any reasonable time, and that it will furnish a certified transcript therefrom of any information which any such bond or warrant holder may request, upon payment of a reasonable fee therefor.
6. It will cause the annual financial statement of the City required by the provisions of Section 40-16-05 of the North Dakota Century Code to include a statement as to the financial condition and the receipts and disbursements of the Water and Sewer Utility Fund and of its several accounts during each fiscal year, and will furnish a copy of such statement to the original purchaser of each issue of bonds or warrants upon request.
7. Upon written demand of the holder of twenty (20) percent or more of the bonds or warrants of any issue payable from the Revenue Bond Account or Improvement Warrant Account and then outstanding, it will cause an audit of the books of account of the utility to be made by a certified public accountant satisfactory to the holders of such obligations, the cost thereof to be paid as an operating expense of the utility and will furnish a copy of the report of any such audit to such party as shall be designated in such demand.
8. It will at all times keep the properties of said utility insured in reasonable amounts against loss or damage by fire, tornado and other risks for which similar properties are customarily insured by prudent owners, and will carry adequate public liability insurance, insuring against any claim of personal injury of property damage which is or may become a charge against the revenues of the utility, and will cause all persons handling funds of the utility to be bonded in suitable amounts for the protection of the City and the holders of

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obligations of the utility, and the expense of all such insurance and bonds to be accounted for as an operating cost of the utility, and the City will use the proceeds of any such insurance and bonds to restore the loss or damage compensated thereby.

9. The City and its governing body and each and all of its officers will punctually perform all duties with reference to said utility and the revenues thereof and the obligations issued hereunder which are imposed or the Ordinances and resolutions of the City, in force on the date upon which any such obligations are issued, and all provisions of the Constitution and laws and of such Ordinances and resolutions which provide security for the holders of bonds issued hereunder, are acknowledged to be apart of the City's contract with the holders from time to time of such obligations; provided that nothing herein shall be deemed to preclude the City from modifying the policies set forth in Section 15-01-04 hereof with reference to any improvements constructed and financed after the effective date of such modification.
10. The holders of twenty (20) percent or more in principal amount of each issue of bonds or warrants payable from the Revenue Bond Account or the Improvement Warrant Account and at the time outstanding shall be privileged, and are hereby empowered, to institute and maintain, in behalf of the holders of all outstanding obligations of the same issue, any suit or proceedings at law or in equity for the protection and enforcement of any covenant, agreement or stipulation and enforcement of any covenant, agreement or stipulation herein provided to be performed or observed by the City or its governing body or any of its officers, whether or not any of such obligations are then in default as to principal and interest, and each and all of the rights and remedies specified and mentioned in Sections 40-35-15 and 40-35-19, inclusive, of the North Dakota Century Code are hereby acknowledged to be available to the holders of such obligations.

Article 2.

WATER SERVICE.

18-02-01 Water System.

All land, buildings, machinery, equipment, tools and apparatus, water mains, hydrants, service connections and all other property used for the purpose of furnishing a water supply to this City, and the inhabitants thereof, now owned or to be owned by this City, whether

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acquired by the issue of general obligation bonds, special assessment warrants or other obligations of this City, shall constitute and be known as the waterworks system.

18-02-02 Water Superintendent.

A water superintendent shall be appointed by the governing board. If he is a part time employee, and if he is also a City employee in some other capacity, only his services respecting the water system shall be an operating charge of the system. It shall be the duty of the water superintendent to exercise control and management of the operation of the waterworks system. He shall have power and authority to employ, subject to the approval of the governing body, all such engineers, filter plant operators, meter readers, laborers and other employees, as may be necessary to the operation of the waterworks system. All such employees shall be subject to his orders and directions, and he shall be responsible for their acts. He shall have power and authority to purchase such materials, supplies and repairs for the waterworks system, with the approval of the governing board of the City, as shall be reasonably necessary for the operation of such system. He shall keep such books and records of matters pertaining to the operation of the system, as are necessary to show the operation and condition thereof. He shall at all times be subject to the supervision and direction of the governing board. He shall perform such other duties and have such other powers and authority as are hereinafter provided for.

18-02-03 Water Service - Application for.

Any party desiring water service from said utility for premises not theretofore connected with the system shall apply for a connection on a form provided by the municipality. Such application shall state an exact description of the premises to be served, and the uses, both general and special, to which the water is to be put, and the estimated amount of water to be used for a quarter-annual period. Such application shall be filed with the city auditor and the applicant shall thereupon pay to the city auditor, as and for a connection charge, the sum of Fifty and no/100 Dollars (\$50.00). Such payment shall be returned to the applicant if the application is refused. Said connection charge shall be in full payment of the cost of installing the service pipe or pipes from the municipality's main opposite the premises to the owner's property line (unless the cost thereof has been assessed against the property) and for water curb cocks, installation of water meters and supervision of the customer's connection with the system.

18-02-04 Water Service - Construction of - Maintenance of by Owner.

The cost of original installation of all plumbing between the curb

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and any service devices maintained by the consumer and all extensions made to such plumbing, as well as all repairs, shall be borne entirely by the consumer, although such plumbing and services as well as the meters shall at all reasonable times be subject to inspection by duly authorized representatives of the municipality. Any repairs found to be necessary by such representatives shall be made promptly, or the municipality will discontinue service.

All services shall be constructed by licensed plumbers at the owner's expense, and each service shall be maintained by the owner. Services heretofore acquired by the issuance of special assessment warrants and assessed against the property, or which may be acquired in the future in like manner, shall likewise be maintained by the owner. Service means the service line running from the point of corporation with City main to owner's premises.

18-02-05 Water Service - To Property.

No permit shall be issued for the making of any connection between any water or sewer lines and any property which has not previously been benefited by existing water and/or sewer lines, or whenever the owners of such property have not been assessed for such water and sewer facilities, unless and until such person shall have paid or made a written agreement with the city to pay in monthly installments within a maximum of five (5) years an amount of money as may be therefore determined by the governing body. Such amount shall be based upon the area served and benefit resulting to the property involved. Within thirty (30) days from the date of receipt of such application, the governing body shall determine the amount of money required to be paid before such connection shall be made and shall advise the applicant property owner of such determination. All such moneys paid and received pursuant to the provisions of this section shall be placed in the water and sewer utility fund and shall be expended in accordance with the purposes of such fund.

18-02-06 Water Service - To Property With Delinquent Assessments.

No permit shall be issued for the making of any connection between any water main of the City and any property on which any special water main assessment taxes are delinquent.

18-02-07 Water Service - Who May Tap.

No person other than an employee of the water department under the supervision of the water superintendent, shall make any tap or connection to a main. The tapping of any mains of said system, and the insertion of the corporation cock in said main shall be done under the supervision of the water superintendent.

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18-02-08 Water Service - Meter Required.

It shall be unlawful for any person to sue water from any premises without the consent of the owner, or to use water from the municipal water system except when drawn through a meter installed by the municipality. No person except an authorized representative of the water superintendent shall turn on or off or tamper with any curb cock.

18-02-09 Water Service -Branch Service - When.

Unless special permission is granted by the water superintendent, each premise shall have a separate and distinct water service connection, and where permission is granted for branch service systems each branch system must have its own separate meter and separate curb cock.

18-02-10 Water Service -Meter Required - Location, Seals.

Any and all water meters shall be the sole property of the municipality. The Meters shall be inspected from time to time and if needed, be repaired or replaced as the municipality sees fit at the municipality's expense. The cost of installation of all water meters in the service line shall be borne entirely by the consumer or property owner. Meters shall be firmly and substantially set in a corkmanlike manner in a convenient and readily accessible location for reading and inspection. No tap or withdrawal of water by the consumer for any purpose shall be permitted ahead of the City meter, or between the meter and the main line. The consumer shall not, after original installation of a meter, make any alterations or additions which will interfere with the repair, maintenance, reading or operation of the meter. Any cost for repairs or replacement of the water meter due to abuse or neglect by the consumer shall be born entirely by the consumer or property owner.

Meters shall at all times be sealed and such seals shall not be broken. Meters shall be removed only by authorized employees of the waterworks department.

18-02-11 Water Service - Services - Installation of.

In installing water service, all taps shall be driven, street excavations made, corporation cocks inserted, pipes installed from main to curb, and the curb cock installed in an iron box to which the service is to be connected, by the municipality's employees only. All service pipes connected with the water system shall be laid three (3) feet below the established grades or as low as the street mains. All sewer pipes shall be of a material approved by the water superintendent.

18-02-12 Curb Cocks.

There shall be a curb cock in every service line attached to the water mains, the same to be placed as near as possible to the curb if
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on a street, or within one (1) foot of the alley line if the main is located in the alley. Curb cocks shall be supplied with strong and suitable "T" handles and shall be enclosed in a substantial iron case covered with a tight fitting iron lid with the letter "W" cast upon it. There shall be one or more stops and waste cocks attached to every supply pipe at some point between the curb cock and the meter so that the water can be shut off and the meter and the house plumbing entirely drained. There shall be another such stop and waste cock in the pipe on the house side of the meter.

18-02-13 Check Valves.

Check valves are hereby required on all water connections to steam boilers or any other connection deemed by the water superintendent to require one. Safety and release valves shall be placed on all boilers or other steam apparatus connected with the water system where the steam pressure may be raised in excess of fifty (50) pounds per square inch.

18-02-14 Regulations Governing Service.

The following rules and regulations shall be considered apart of the contract with every person who takes water supplied by the City through City waterworks system and every such person who takes water shall be considered as having expressed his agreement to be bound thereby.

1. Shutting Off Water: Who is Authorized. No person except an authorized employee of the water department shall shut off or turn on the water at the curb cock to any premises without first obtaining permission from the water department.
2. City Reserves Right to Shut Off Water, Notice. In the case of making repairs or constructing new work, the City reserves the right to shut off the water at once and keep the same shut off as long as may be necessary to accomplish such purposes. The City shall in such case make such effort as is practicable to give notice to consumers.
3. Non-liability of City for Deficient Supply or Quality of Water. It is expressly provided that the city shall in no event be or become liable to any consumer of water for a deficiency in the supply of water or the quality thereof, whether by shutting off the same to make repairs or to construct new work or for any other cause whatsoever.

4. Shutting Off or Reconnecting Water: Charge For. The water Department shall make no charge or shutting-of service. The water department shall make a reconnect charge of Ten and no/100 Dollars (\$10.00) for turning on service after it has been previously shut off.

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5. Entrance and Access to Premises By Waterworks Employees. Authorized employees of the water department shall have free access to any premises supplied with water, at proper times, to inspect and ascertain the condition of the meters and fixtures, or for reading meters, and no owner or occupant shall refuse such employees such access. The water department shall have the right to enter any premises and remove the meter for the purpose of examination and test after first notifying the owner or occupant, and to shut off the water to premises where free access is prevented.
6. Fire Hydrants, Who May Open. No person except City employees in the performance of their official duties shall open or cause to be opened any fire hydrant without the written permission of the water superintendent.
7. Interruption of Service. The City reserves the right to cut off any utility service without notice in case of emergencies. When an interruption in service is necessary for the maintenance and improvement of the utility system, affected customers will be notified as circumstances permit.
8. Emergency Restrictions. The City hereby reserves the right to at any time restrict or prevent the use of any utility service furnished by the City during periods of emergency or circumstances demanding such restriction or prevention of use.
9. Resale of Service Unlawful. It shall be unlawful for any person to resell any utility service obtained from the city to others except only by special arrangement with the City commission.
10. Connections - Made By Whom. Connections for any utility service furnished by the City shall be made only under the supervision of the waterworks superintendent.
11. Authorized Persons. No person, other than employees of the city, shall be authorized to connect, turn on, turn off or disconnect any utility service offered by the City, or remove, replace or repair any equipment connected to any such utility service.

18-02-15 Rates and Charges.

There shall be and there is hereby established rates and charges for the use of and for the service supplied by the municipal water system for the City, based upon the meter readings of the amount of water consumed as follows:

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First 1,000 gallons or \$20.25 per month
lesser amount per month. (minimum monthly bill)

All over 1,000 gallons per month \$3.50 per 1,000 gallons

Bulk water at the water plant \$5.00 per 1,000 gallons

Bills for the rates and charges as herein established by the City shall be sent and shall be due when billed. All bills shall be payable at the office of the City Auditor.

If any charge for the services of the system shall not be paid by the 10th day of the month in which it shall become due and payable, a delayed payment charge of one and one-half percent (1 1/2%) of the amount of the bill shall be added thereto and collected therewith. If any bills for the service of the water system shall remain unpaid after ten (10) days following the rendition of the bill therefor, the water supply for the lot, parcel of land, or premise affected shall be cut off and shall not be turned on again except on payment in full of the delinquent charges therefor in addition to the payment of a charge of Twenty-five and no/100 Dollars (\$25.00).

18-02-16 Rates, and Charges - Liability For.

Owners of premises where water is supplied shall notify the water department in case any tenant moves from said premises, prior to such moving. In case said tenant moves from said premises to other premises in the City, and is there supplied with water, he shall be liable for the water used at his former residence up to the time of moving, and the water department shall take such measures to enforce the collection of such water bill, as are provided for in the case of non-payment of other water bills. In case said tenant moves away from said City or moves to some place within said City where he is not directly supplied by said water department with water and refuses or neglects to pay said bills within fifteen (15) days after notice thereof, then and in that event the owner of the property for which said bill was rendered shall be liable for said bill, and the water department shall take such measures to enforce collection of such water bill, as are provided for in the case of non-payment of other water bills.

The owner or owners of all real property in the City furnished

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with water service or service line repairs shall be responsible for the payment of any and all such charges, regardless of who the occupant or tenant may be. On request of the owner or owners the water superintendent will bill the occupant or tenant for such charges, but if such charges are not paid when due by the occupant or tenant, the owner or owners shall be responsible for such charges and they shall be assessed to the property served. It shall be the duty of the city auditor to certify to the county auditor such unpaid water or service charges that are unpaid in the same manner and at the same time as other assessments are certified, and they shall be assessed and collected in the same manner.

Article 3.

REGULATION OF SEWER USE

18-03-01 Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

1. Biochemical oxygen demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter.
2. "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.
4. "Combined sewer" shall mean a sewer intended to receive both wastewater and storm or surface water.
5. "Easement" shall mean an acquired legal right for the specific use of land owned by others.
6. "Floatable oil" is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

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7. "Garbage" shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.
8. "Industrial wastes" shall mean the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.
9. "Natural outlet" shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. "May" is permissive (see "'shall'" paragraph #18).
11. "Person" shall mean any individual, firm, company, association, society, corporation, or group.
12. "pH" shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen-ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10^{-7} .
13. "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than $\frac{1}{2}$ inch (1.27 centimeters) in any dimension.
14. "Public sewer" shall mean a common sewer controlled by a governmental agency or public utility.
15. "Sanitary sewer" shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
16. "Sewage" is the spent water of a community. The preferred term is "wastewater," paragraph #24.
17. "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.
18. "Shall" is mandatory (see "may," paragraph #10).
19. "Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of

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- flow exceeds for any period of duration longer than *fifteen* (15) minutes more than five (5) times the average *twenty-four* (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
20. "Storm drain" (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.
 21. "Superintendent" shall mean the (superintendent of wastewater facilities, and/or of wastewater treatment works, and/or of water pollution control) of the City of New Rockford, or its authorized deputy, agent, or representative.
 22. "Suspended solids'" shall mean total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as non-filterable residue.
 23. "Unpolluted water" is water of quality equal to or better than the effluent criteria in effect of water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
 24. "Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.
 25. "Wastewater facilities" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.
 26. "Wastewater treatment works" shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or wastewater treatment plant" or "water pollution control plant."
 27. "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

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18-03-02 Use of Public Sewers Required.

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of New Rockford, or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.
2. It shall be unlawful to discharge to any natural outlet within the City of New Rockford, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.
3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
4. The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after date of official notice to do so, provided that said public sewer is within two hundred (200) feet of the property line.

18-03-03 Private Wastewater Disposal.

1. Where a public sanitary or combined sewer is not available under the provisions of 18-03-02, paragraph 4, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.
2. Before commencement of construction of a private wastewater disposal system the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the superintendent. A permit and inspection fee of Fifty and no/100 Dollars (\$50.00) shall be paid to the City at the time the application is filed.

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3. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. The superintendent shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the superintendent.
4. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations of the department of public health of the State of North Dakota. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than twenty thousand (20,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
5. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in 18-03-03, paragraph 4, a direct connection shall be made to the public sewer within sixty (60) days in compliance with this ordinance, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.
6. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City. All sludge or solids, to be disposed of from a septic tank, cesspool or other individual method of disposal shall be disposed of by a licensed septic tank pumper in accordance with the North Dakota State Health Department Regulation 23-19-01.
7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer.

18-03-04 Sanitary Sewers, Building Sewers and Connections.

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.
2. There shall be two (2) classes of building sewer permits:
 - (a) for residential and commercial service, and (b) for ser

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vice to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent to the judgment of the superintendent. A permit and inspection fee of Fifty and no/100 Dollars (\$50.00) for a residential or commercial building sewer permit and Fifty and no/100 Dollars (\$50.00) for an industrial building sewer permit shall be paid to the City at the time the application is filed.

3. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
4. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.
5. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this ordinance.
6. The size, slope, alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City and the State of North Dakota. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such

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building drain shall be lifted by an approved means and discharged to the building sewer.

8. No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer, unless such connection is approved by the superintendent and the North Dakota State Department of Health for purposes of disposal of polluted surface drainage.
9. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City, and the State of North Dakota, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.
10. The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the superintendent or his representative.
11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

18-03-05 Use of the Public Sewers.

1. No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, surface water, groundwater, roof runoff, subsurface drainage, or cooling water to any sewer, except stormwater runoff from limited areas, which stormwater may be polluted at times, may be discharged to the sanitary sewer by permission of the superintendent and the North Dakota State Department of Health.
2. Stormwater other than that exempted under paragraph 1, 18-03-05 and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the superintendent and the North Dakota State Department of Health.

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Unpolluted industrial cooling water or process waters may be discharged, on approval of the superintendent, to a storm sewer, combined sewer, or natural outlet.

3. No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:
 - (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
 - (b) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works.

Each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the New Rockford treatment works shall pay for such increased costs.

(c) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

4. The following described substances, materials, waters or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, the sludge of any municipal system, the wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The superintendent may set limitations lower than the limitations established in the regulations below if, in his opinion, such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of

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waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the superintendent are as follows:

- (a) Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
- (b) Wastewater containing more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin.
- (c) Wastewater from industrial plants containing floatable oils, fat, or grease.
- (d) Any garbage that has not been properly shredded (see 18-03-01 paragraph 13) Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of Consumption on the premises or when served by caterers.
- (e) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the superintendent for such materials.
- (f) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the superintendent.
- (g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable State or Federal regulations.
- (h) Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.
- (i) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (j) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

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5. It any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in paragraph 4 of this Article, and which in the judgment of the superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:
 - (a) Reject the wastes,
 - (b) Require pretreatment to an acceptable condition for discharge to the public sewers,
 - (c) Require control over the quantities and rates of discharge, and/or
 - (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of paragraph 11 of this article. If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent and the North Dakota State Department of Health.
6. Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in paragraph 4(c), or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent and the North Dakota State Plumbing Code, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates and means of disposal which are subject to review by the superintendent. Any removal and hauling of the collected materials not performed by owner" 5 personnel must be performed by currently licensed waste disposal firms.
7. Where pretreatment or flow-equalization facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
8. When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary

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meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structures, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The structure shall be installed by the owner at this expense, and shall be maintained by him so as to be safe and accessible at all times.

9. The superintendent may require a user of sewer services to provide information needed to determine compliance with this ordinance. These requirements may include:
 - (1) Wastewater' 5 discharge peak rate and volume over a specified time period.
 - (2) Chemical analyses of wastewaters.
 - (3) Information on raw materials, processes, and products affecting wastewater volume and quality.
 - (4) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
 - (5) A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
 - (6) Details of wastewater pretreatment facilities.
 - (7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.
10. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the superintendent.
11. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

18-03-06 Destruction of Facilities.

1. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

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18-03-07 Powers and Authority of Inspectors.

1. The superintendent and other duly authorized employees of the City bearing proper credentials and identification shall **be** permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this ordinance.
2. The superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.
3. While performing the necessary work on private properties referred to in 18-03-07, paragraph 1, above, the superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in 18-03-05, paragraph 8.
4. The superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

18-03-08 Hearing Board.

1. A Hearing Board shall be appointed as needed for arbitration of differences between the superintendent and sewer users on matters concerning interpretation and execution of the provisions of this ordinance by the superintendent. The cost of

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the arbitration will be divided equally between the municipality and the sewer user.

2. One member of the board shall be a registered professional engineer; one member shall be a practicing sanitary engineer; one member shall be a representative of industry or manufacturing enterprise; one member shall be a lawyer; and one member shall be selected at large for his interest in accomplishing the objectives of this ordinance.

18-03-09 Penalties.

1. Any person found to be violating any provision of this ordinance except 18-03-06 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Any person who shall continue any violation beyond the time limit provided for in 18-03-09, paragraph 1, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding One Thousand and no/100 Dollars (\$1,000.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

18-03-10 Validity.

1. All ordinances or parts of ordinances in conflict herewith are hereby repealed.
2. The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

18-03-11 Ordinance in Force.

1. This ordinance shall be in full force and effect from and after its passage, approval, recording, and publication as provided by law.

WATER. AND SEWERS

Article 4.

WASTEWATER SERVICE CHARGES

18-04-01 Purpose.

The purpose of this ordinance shall be to generate sufficient revenue to pay all costs for the operation and maintenance of the complete wastewater system. The costs shall be distributed to all users of the system in proportion to each user's contribution to the total loading of the treatment works. Factors such as strength (BOD and TSS), volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance costs to each user (or user class).

18-04-02 Determining the Total Annual Cost of Operation & Maintenance.

The City of New Rockford, or its City Engineer, shall determine the total annual costs of operation and maintenance of the wastewater system which are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works were designed and constructed. The total annual cost of operation and maintenance shall include, but need not be limited to, labor, repairs, equipment replacement, maintenance necessary modifications, power, sampling, laboratory tests, and a reasonable contingency fund. (See Appendix A)

18-04-03 Determining Each User's Wastewater Contribution Percentage.

The City of New Rockford, or its City Engineer, shall determine for each user or user class, the average daily volume of wastewater discharged to the wastewater system which shall then be divided by the average daily volume of all wastewater discharged to the wastewater system to determine each user's Volume Contribution Percentage. The amount used as the total average daily volume, of wastewater shall exclude infiltration and inflow. The City of New Rockford or its City Engineer shall determine for each user or user class the average daily poundage of 5-day, 20-degree centigrade Biochemical Oxygen Demand (HOD) discharged to the wastewater system, which shall then be divided by the average daily poundage of all 5-day HOD discharged to the wastewater system to determine such user's BOD Contribution Percentage. (See Appendix A)

The City of New Rockford or its City Engineer shall determine for each user or user class the average daily poundage of Total Suspended Solids (TSS) discharged to the wastewater system which shall then be

WATER AND SEWERS

divided by the average daily poundage of all total suspended solids discharged to the wastewater system, to determine such user's TSS Contribution Percentage. The Volume Contribution Percentage, BOD Contribution Percentage, and TSS Contribution Percentage for each user or user class shall be multiplied by the annual operation and maintenance costs for the total volume, the total 5-day, 20-degree centigrade BOD and the TSS, respectively. (See Appendix A)

18-04-04 Determining a Surcharge System for Users With Above Normal Volume, BOD and TSS.

SURCHARGE RATE SCHEDULE FOR ABOVE NORMAL STRENGTH WASTES.

The City of New Rockford will assess a surcharge rate for all nonresidential users discharging wastes with BOD and TSS strengths greater than the average residential user. Such users will be assessed a surcharge sufficient to cover the costs of treating such user's above normal strength wastes. Normal strength wastes are considered to be 200 ppm BOD and 250 ppm TSS. Such users will pay an additional user charge of 0.25 cents per 1,000 gallons for each 25 ppm or fraction thereof over 200 ppm of BOD and 0.3 cents per 1,000 gallons for each 25 ppm or fraction thereof over 250 ppm TSS. (See Appendix A)

SURCHARGE RATE SCHEDULE FOR ABOVE NORMAL VOLUME OF WASTES.

Residential users are considered to be one class of user and are hereby levied a monthly charge as follows:

Single Family Dwelling	\$ 2.50
Apartment Buildings:	
1 through 4 apartments	2.50 per apartment
The next 8 apartment	2.00 per apartment
The next 8 apartment	1.25 per apartment
All apartments thereafter	1.00 per apartment

Non-residential users with flows no greater than the average residential user's flow of 7,500 gallons per month and with DOD and TSS no greater than the average residential user's strength will be levied the same charge of \$2.50 per month as the average residential user.

Non-residential users with volumes greater than the average residential user will pay an additional charge of 33 cents per 1,000 gallons per month for all flows greater than the average residential user's flow of 7,500 gallons per month. (See Appendix A)

18-04-05 Determining Each User's Wastewater Service Charge.

Each non-residential user's wastewater cost contributions, as

WATER AND SEWERS

determined in 18-04-03 and 18-04-04, shall be added together to determine such user's annual wastewater service charge. Residential users may be considered to be one class of user and an equitable service charge may be determined for each user based upon an estimate of the total wastewater contribution of this class of user. The governing body may classify industrial, commercial, and other non-residential establishments as a residential user, provided that the wastes from these establishments are equivalent to the wastes from the average residential user with respect to volume, TSS and BOD. (See Appendix A)

18-04-06 Wastewater Facilities Replacement Fund.

A reserve fund called the Wastewater Facilities Replacement Fund (WFRF) is hereby established within the Wastewater Utility Fund for the purpose of providing sufficient funds to be expended for obtaining and installing equipment, accessories and appurtenances during the useful life (20 years) of the wastewater treatment facilities necessary to maintain the capacity and performance for which such facilities are designed and constructed.

The WFRF established within the Wastewater Utility Fund as an interest-bearing account shall be funded by a deposit of Five Thousand Four Hundred and no/100 Dollars (\$5,400.00)per year obtained from the Wastewater Utility Fund at the end of each fiscal year.

18-04-07 Payment of the User's Wastewater Service Charge and Penalties.

The City may submit an annual statement to the user for the user's annual wastewater service charge or one-twelfth of the user's annual wastewater service charge may be included with the monthly water and/or wastewater utility billing. The City shall add a penalty of 1 1/2 percent per month (minimum charge of \$1.00) if the payment is not received by the City within 20 days. Should any user fail to pay the user wastewater service charge and penalty within 3 months of the due date, the City may stop the wastewater service to the property.

18-04-08 Review of Each User's Wastewater Service Charge.

The City shall review the total annual cost of operation and maintenance as well as each user's Wastewater Contribution Percentage not less than every two years, and will revise the system as necessary to assure equity of the service charge system established herein and to assure that sufficient funds are obtained to adequately operate and maintain the wastewater system. The City will apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. If a significant user, such as an industry, has

WATER AND SEWERS

completed in-plant modifications which would change that user's Wastewater Contribution Percentages, the user can present at a regularly scheduled meeting of the governing body such factual information and the City shall then determine if the user's Wastewater Contribution Percentages are to be changed. The City shall notify the user of its findings as soon as possible.

18-04-09 Notification.

Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

18-04-10 Wastes Prohibited From Being Discharged to the Wastewater System.

The discharge of any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works is hereby prohibited.

Each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the City's treatment works shall pay for such increased costs.

18-04-11 Validity.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

18-04-12 Ordinance in Force.

This ordinance shall be in full force and effect from and after its passage, approval, recording, and publication as provided by law.

APPENDIX A
TO CHAPTER 18, ARTICLE 4
(August 1983)

COMPUTATIONS FOR USER CHARGE SYSTEM

New Rockford, North Dakota

A. Estimated Annual Operation and Maintenance Costs

Administration	\$ 1,000
Labor (25 hours / week)	10,400
Materials and supplies	1,500
Replacement on collection system (WFRF)	3,900
Replacement on treatment facilities (WFRF)	1,500
Sewer cleaning	2,500
Lift station power (collection)	3,000
Lift station power (treatment)	1,200
Vehicles and equipment	560
	<u>\$25,560/year</u>

= \$2,130/month

B. Average Flow Per Residence

7,500 gal/month - 1 Unit = R

C. Flows (based on water use)

Residence and Business (1 Unit) 590 + 74
Lutheran Home
Laundry - Cleaners
Central School
Hospital
Klein's Hotel & Court
Sunset Trailer Court
Car Wash
Homestead Cafe
Beauty Shop & Dental Clinic
Dairy Queen
Nu Cafe
Cenex
Courthouse
St. James School
Group Home

Apartments

114 units @ 1 R
16 units @ 0.6R
8 units @ 0.3R

TOTAL

D. Rate Schedule

$\$2,130 / \text{month} \text{ divided by } 880 \text{ units} = \$2.42/\text{month}.$

Because some larger users are seasonal-set $R = \$2.50/\text{month}$

E. Annual Revenue

Based on average flows for December, January and February

$880 R \times \$2.50 = \$2,200/\text{month} = \$26,400$
(to be reviewed and adjusted after one year)

F. Determine BOD and TSS Surcharge Rate for Above Normal Wastes

$1 R = 7,500 \text{ gal/month} @ \$2.50 = \$0.33/1000 \text{ gal}.$

Estimated allocation of costs for the operation and maintenance of the City's collection and treatment facilities are as follows:

Q (flows)	=	85% x \$0.33 = \$	0.28/1000 gal.
DOD	=	7.5% x \$0.33 =	0.02/1000 gal.
TSS	=	7.5% x \$0.00 =	0.03/1000 gal.

25 mg/l of BOD per 1000 gallons is equivalent to 2 cents x

$25 \text{ mg/l} = 0.25 \text{ cent per } 25 \text{ mg/l per } 1,000 \text{ gallons}.$

25 mg/l of TSS per 1,000 gallons is equivalent to 3 cents x

$25 \text{ mg/l} = 0.3 \text{ cents per } 25 \text{ mg/l per } 1,000 \text{ gallons}.$

ORDINANCE ENACTMENT #2017-01

AN ORDINANCE REPEALING CHAPTER 19 OF THE "THE ORDINANCES OF THE CITY OF NEW ROCKFORD, NORTH DAKOTA," REGARDING FLOOD DAMAGE PREVENTION AND ENACTING A NEW CHAPTER 19 REGARDING FLOOD DAMAGE PREVENTION

Be it ordained and enacted by the City Commission of the City of New Rockford, North Dakota, as follows:

That the present Chapter 19 of the Ordinances of the City of New Rockford, North Dakota, is hereby revoked and a new Chapter 19 is hereby enacted to read as follows:

CHAPTER 19

FLOOD DAMAGE PREVENTION

ARTICLE 1

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

19-01-01 STATUTORY AUTHORIZATION.

The Legislature of the State of North Dakota has in North Dakota Century Code, Chapters 40-47, 11-33, and 58-03, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the City Commission of City of New Rockford, North Dakota does ordain as follows:

19-01-02 FINDINGS OF FACT.

- (1) The special flood hazard areas of City of New Rockford are subject to periodic inundation which can endanger life, result in loss of property, create health and safety hazards, disrupt commerce and governmental services, cause extraordinary public expenditures for flood protection and relief, and impair the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) Flood losses caused by the cumulative effect of obstructions in the special flood hazard areas cause increases in flood heights and velocities. Inadequately flood proofed, elevated or otherwise unprotected structures also contribute to the flood loss.

19-01-03 METHODS OF REDUCING FLOOD LOSSES.

In order to limit and prevent flood damages in the City of New Rockford, this ordinance has provisions for restricting, prohibiting,

and guiding development activities that can be subject to flood damage.

19-01-04 DISCLAIMER.

This ordinance shall not create liability on the part of the City of New Rockford, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

19-01-05 DEFINITIONS.

"Base flood or 100-year flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation" (BFE) means the height of the base flood or 100-year flood usually in feet above mean sea level.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Best Available Data" (BAD) means water elevation information from any source used to estimate or determine a base flood elevation (i.e. high water mark).

"Conveyance or hydraulic conveyance" means a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the special flood hazard area.

"Flood Insurance Rate Map" (FIRM) means the official map issued by the Federal Emergency Management Agency where special flood hazard areas are designated as Zone A.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or; from the unusual and rapid accumulation or runoff of surface waters from any source.

"Floodproofing" (Dry) means protection provided a structure, together with attendant utilities and sanitary facilities, which is watertight two feet above the base flood elevation with walls that are substantially impermeable to the passage of water.

"Floodway or regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one

foot.

"Lowest floor" means the lowest floor of a structure including the basement.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle", but does include "mobile home".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

"Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

"Recreational vehicle" means a vehicle which is:

- (a) built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) designed to be self-propelled or permanently towable by a light duty truck;
- (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use; including, but not limited to;
- (e) travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.

"Special Flood Hazard Area" (SFHA) means an area of land that would be inundated by a flood having a one-percent chance of occurring in any given year.

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does

not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"Structure" means a walled and roofed building, including manufactured homes and gas or liquid above-ground storage tanks.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

19-01-06 LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all special flood hazard areas within the jurisdiction of City of New Rockford as identified by the Federal Emergency Management Agency in its latest Flood Insurance Rate Map, dated June 7, 2017. This map is adopted by reference and declared to be a part of this ordinance. It is on file at the Auditors Office in City Hall, 117 1st St S, New Rockford, ND.

FLOOD DAMAGE PREVENTION

ARTICLE 2

PERMIT PROCEDURES

19-02-01 PERMITS.

Before any construction or development begins within a special flood hazard area, a permit shall be obtained from the City Auditor, hereinafter referred to as the responsible person. The permit shall include:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all proposed structures;
- (2) Elevation in relation to mean sea level to which any structure will be floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Article 19-03-02 (2); and,
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

19-02-02 USE OF OTHER BASE FLOOD DATA.

When base flood elevation data has not been provided in accordance with Article 19-01-06, LANDS TO WHICH THIS ORDINANCE APPLIES, the responsible person shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, (known as best available data) in order to administer this section, Article 19-03-01, GENERAL STANDARDS, and Article 19-03-02, SPECIFIC STANDARDS.

19-02-03 PERMIT REVIEW.

All permit applications shall be reviewed (using the best available base flood elevation data from any federal, state, or local source) to:

- a) assure sites are reasonably safe from flooding;
- b) determine that all necessary permits have been obtained from those federal, state, or local agencies from which prior approval is required; and
- c) to determine if the proposed development adversely affects the flood carrying capacity of a flood-prone area. For the purposes of this ordinance, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of

the channel and the adjacent overbank areas.

- (1) If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further considerations.
- (2) If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer) for the proposed development shall be required.
- (3) If the proposed development is a building, then the following provisions of this ordinance shall apply.

FLOOD DAMAGE PREVENTION

ARTICLE 3

STANDARDS

19-03-01 GENERAL STANDARDS.

In all special flood hazard areas, the following standards are required:

- 1) Anchoring
 - (a) All new construction and substantial improvements (including additions) shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - (b) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- 2) Construction Materials and Methods
 - (a) All new construction and substantial improvements shall be constructed using methods and with materials and utility equipment that resist or minimize flood damage.
 - (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

- (c) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or

accumulating within the components during conditions of flooding.

3) Utilities

- (a) All new and replacement water supply systems and sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
- (c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4) Subdivision Proposals

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

5) Encroachments

Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

19-03-02 SPECIFIC STANDARDS.

1) Residential Construction

- (a) New construction and substantial improvement of any

residential structure shall have the lowest floor,
including basement, elevated on fill to at least one

foot above the base flood elevation.

- (b) Manufactured homes shall be placed so that the lowest floor is elevated on fill to at least one foot above the base flood elevation.

2) Nonresidential Construction

New construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated on fill to at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities shall:

- (a) Be adequately floodproofed up to an elevation no lower than two feet above the base flood elevation.
- (b) Be floodproofed so that below the two feet above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design methods of construction are in accordance with accepted standards of practice.
- (c) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (d) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the responsible person as set forth in Article 19-04-01.

FLOOD DAMAGE PREVENTION

ARTICLE 4

ADMINISTRATIVE REQUIREMENTS

19-04-01 INFORMATION TO BE OBTAINED AND MAINTAINED.

The responsible person shall:

- 1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, whether or not the structure contains a basement.

- 2) For all new or substantially improved floodproofed structures:
 - (a) Obtain and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.
 - (b) Maintain the floodproofing certifications required in Article 19-03-02(2).
- 3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

19-04-02 ALTERATION OF WATERCOURSES.

The responsible person shall:

- (1) Notify nearby communities, water resource districts and the North Dakota State Engineer, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and
- (3) Notify the appropriate water resource district prior to removal or placement of fill within two hundred feet of the bank of a body of water during normal flow or stage.

19-04-03 PENALTIES FOR NON-COMPLIANCE.

- (1) Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violations on conditions and safeguards established in connection with grants or variances or conditional uses, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be punished by a fine not exceeding \$500 or by imprisonment for each such offense, and in addition shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- (2) Nothing herein contained shall prevent the City of New Rockford from taking such other lawful action as is

necessary to prevent or remedy any violation.

FIRST READING: April 3, 2017
SECOND READING: May 1, 2017
EFFECTIVE DATE: May 1, 2017

Calvin J. Packard
President, City Commission
New Rockford, North Dakota

Attest:

George J. Ritzke
City Auditor

CHAPTER 20

HOME RULE CHARTER

Article 1.

INCORPORATION

20-01-01 Incorporation.

The inhabitants of the City of New Rockford, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of New Rockford."

Article 2.

GOVERNING POWERS

20-02-01 Governing Powers.

Subject to the limitations imposed by the state constitution, state law, and this charter, all powers of the city shall be vested in the elected governing body. The elected governing body shall enact local legislation, adopt budgets, determine policies, and prescribe the functions of government to be performed under this charter by the city. All powers of the city shall be exercised in the manner prescribed in this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Article 3.

POWERS OF THE CITY

20-03-01 Powers of City.

The city shall have all powers granted to municipal corporations by the constitution and laws of this state and by this charter, together with all the implied powers necessary to carry into execution all powers granted.

Among its enumerated powers, which may be implemented by ordinance subject to the limitations specified in the charter, shall be the following:

1. To acquire, hold operate and dispose of property within or without the corporate limits, and exercise the right of eminent domain to such purposes.
2. To control its finances and fiscal affairs; to appropriate money for its purposes, and make payment of its debts and

HOME RULE CHARTER

expenses; to levy and collect taxes, excises, fees, charges and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings and improvements; to contract debts, borrow money, issue bonds, warrants and other evidences or indebtedness; to establish charges for any city or other services, and to establish debt and mill levy limitations, provided that the mill levies ordered imposed by the governing body on taxable property subject to ad valorem taxation shall not exceed in total the sum of levies authorized by state statutes and the constitution for cities of similar classification to that of the City of New Rockford. The governing body shall be permitted to promulgate the city budget without regard to the specific dedications of mill levies to specific purposes as long as the total of the budget is not more than the total amount of mills authorized to be levied by a city.

3. To fix the fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental police powers.
4. To provide for city officers, agencies and employees, their selection, terms, powers, qualifications and compensation.
5. To provide for city courts, their jurisdiction and powers over ordinance violations, duties, administration, and the selection, qualifications, and compensation of their officers; however, the right of appeal from judgment of such courts shall not be in any way affected.
6. To provide for all matters pertaining to city elections, except as to qualifications of electors.
7. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof.
8. To lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation and regulation thereof.
9. To define offenses against private persons and property and the public health, safety, morals and welfare, and provide penalties for violation thereof.

HOME RULE CHARTER

10. To engage in any utility, business, or enterprise permitted by the constitution or not prohibited by statute or to grant and regulate franchises therefore to a private person, firm, or corporation.
11. To provide for zoning, planning, and subdivision of public or private property within the city limits; to provide for such zoning, planning, and subdivision of public or private property outside the city limits as may be permitted by state law.
12. To levy and collect franchise and license taxes for revenue purposes.
13. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
14. To fix the boundary limits of said city and the annexation and de-annexation of territory adjacent to said city except that such power shall be subject to, and shall conform with, the state law made and provided.
15. To contract with and receive grants from any other governmental entity or agency, with respect to any local, state or federal program, project or works.
16. To impose a sales and use tax in addition to any other taxes permitted or imposed by law.

The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers which under the construction and laws of this state, it would be competent for this charter specifically to enumerate.

Article 4.

SEPARABILITY CLAUSE

20-04-01 Separability Clause.

If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

HOME RULE CHARTER

Article 5.

PLENARY AND IMPLIED POWERS OF THE GOVERNING BODY

20-05-01 Plenary and Implied Powers of the Governing Body.

The governing body shall have plenary power to enact and make all proper and necessary ordinances, resolutions and orders to carry out and give effect to the express and implied powers granted in this charter to the end that a complete, harmonious and effective municipal government may be initiated, installed, operated and maintained in the city, and thereby protect and safeguard the rights, interests, safety, morality, health and welfare of the city and its inhabitants.

Article 6.

SUCCESSION IN GOVERNMENT

20-06-01 RIGHTS OF OFFICERS AND EMPLOYEES PRESERVED

Nothing in this charter, except as specifically provided, shall affect or impair the rights or privileges of officers or employees of the city or of any office, department or agency existing at the time when this charter shall take effect and not inconsistent with the provisions of this charter in relation to the personnel, appointment, removal, pension and retirement rights, civil rights or any other rights or privileges of officers or employees of the city or any office, department, or agency.

20-06-02 CONTINUANCE OF PRESENT OFFICERS

All persons holding executive and administrative office at the time this charter takes effect shall continue in office and shall continue the performance of their duties until provisions shall have been made by the governing board for the performance of such duties in some other manner or the discontinuance of such office.

20-06-03 CONTINUANCE OF PRESENT OFFICES, DEPARTMENTS OR AGENCIES

Any office, department, or agency, heretofore existing, shall continue to exercise powers and duties the same as were heretofore exercised and shall have the power to continue any business proceedings or other matters within the scope of its regular powers and duties until such office, department or agency shall be changed or abolished by the governing body.

The powers conferred and the duties imposed upon any office, department or agency of the city by the laws of this state shall, if such office, department or agency be abolished by this charter or

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under its authority, be thereafter exercised and discharged by the office, department or agency designated by the governing body.

20-06-04 CONTINUANCE OF APPOINTIVE BOARDS, AUTHORITIES AND COMMISSIONS

All appointive boards, authorities and commissions, heretofore existing shall continue and shall exercise such powers and duties as were granted them until such boards, authorities, and commissions shall be changed or abolished by the governing body.

20-06-05 CONTINUANCE OF CONTRACTS

All contracts entered into by the city, or for its benefit, prior to the taking effect of this charter, shall continue in full force and effect.

20-06-06 PENDING ACTIONS AND PROCEEDINGS

The adoption of this charter shall not abate or otherwise affect any action or proceeding civil or criminal, pending when it takes full effect, brought by or against the city or any office, department, agency or officer thereof.

20-06-07 ORDINANCES TO REMAIN IN FORCE

All ordinances, resolutions and regulations of the city in force at the time of this charter taking effect, and not inconsistent with the provisions thereof, are hereby continued in force until the same shall be duly amended or repealed.

20-06-08 INAUGURATION OF GOVERNMENT UNDER THIS CHARTER

If a majority of the qualified electors of the city voting on the question, vote to ratify this charter, the provisions of this charter shall go into effect upon the filing of the charter by the governing body with the secretary of state, the clerk of the district court of Eddy County, and the office of the city auditor of New Rockford, within ninety (90) days after the election ratifying the charter.

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Article 7.

CHANGING THE FORM OF GOVERNMENT

20-07-01 Changing the Form of Government.

Changes in the form of government may be proposed on motion of the governing body or may be proposed by petitions bearing the signatures of qualified city electors equal to fifteen percent (15%) of those voting for the office of governor in the last election. Proposals for changing the form of government shall be voted upon at a special election called by the governing body or at the next municipal election, whichever shall occur first, provided that at least thirty days have passed after the motion of the governing board or the filing of petitions with the city auditor.

Article 8.

CONSTRUCTION

20-08-01 Construction.

The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power stated in this charter.

Article 9.

METHOD OF AMENDMENT AND REPEAL

20-09-01 Method of Amendment and Repeal.

This charter may be amended or repealed as provided by Section 40-05.1-07 of the North Dakota Century Code and acts amendatory thereto.