

Ordinances
City of
Gladstone,
North Dakota

Ordinances Adopted:

January 6, 2020

ENACTING ORDINANCE

ORDINANCE NO.

Adopting the Revised Ordinances of the City of Gladstone, North Dakota, and repealing all ordinances previously adopted with certain exceptions.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GLADSTONE, NORTH DAKOTA:

Section 1. The 2020 Revised Ordinances of the City of Gladstone. This ordinance and the ordinances hereby adopted shall be known and cited as the Revised Ordinances of the City of Gladstone.

Section 2. ENACTMENT. The 2020 Revised Ordinances of the City of Gladstone, consisting of Chapters I to XIV, both inclusive, an original copy of which has been authenticated by the original signatures of the City's Mayor of the City Council, and City Auditor and which original is on file in the office of the City Auditor, are hereby adopted as the Ordinances of the City of Gladstone.

Section 3. REPEAL. All ordinances of the City adopted prior to the date of this enacting ordinance are hereby repealed except the following ordinance which shall continue in full force and effect regardless of the fact that they are herein omitted:

1. All existing ordinances granting franchises, if omitted from these revised ordinances.
2. All existing ordinances creating contract obligations on the part of the City, which obligations shall remain binding until fully performed by the City.
3. All existing ordinances establishing special improvement districts, or street grades.
4. 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.
5. All salary and appropriation ordinances.
6. The incorporation herein of any of the ordinances of the City 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 in reenacted herein.
7. Any and all other ordinances adopted in said 2020 Revised Ordinances of the City of Gladstone by reference, although the same are not set forth in full therein.
8. All existing ordinances establishing, extending or reducing the city limits of the City, if omitted from these revised 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 licensees and permittees shall be governed by the provisions of the 2020 Revised Ordinances of the City of Gladstone 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 2020 Revised Ordinances of the City of Gladstone.

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 2020 Revised Ordinances of the City of Gladstone, 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 that term thereof on a monthly basis, provided, that the minimum fee for any such new license or permit shall be \$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, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

Section 7. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and approval, and without publication.

MAYOR

ATTEST:

CITY AUDITOR

CITY SEAL

First Reading: December 2, 2019

Second Reading and Final Passage: January 6, 2020

TABLE OF CONTENTS

<u>CHAPTER ONE – GOVERNMENT ORGANIZATION</u>	1
ARTICLE 1 - Jurisdiction	3
ARTICLE 2 - Governing Body – Board of City Council.....	3
ARTICLE 3 - Elective Officers.....	4
ARTICLE 4 - Elective Officers Other than Governing Body	8
ARTICLE 5 - Appointive Offices	9
ARTICLE 6 - Special Provisions Regarding City Officers	10
ARTICLE 7 - Purchasing and Disposition of Property	13
ARTICLE 8 - Municipal Elections.....	15
ARTICLE 9 - Records Management Policy	18
<u>CHAPTER TWO – ORDINANCES</u>	19
ARTICLE 1 - Procedure.....	20
<u>CHAPTER THREE – PUBLIC PLACES AND PROPERTY</u>	23
ARTICLE 1 - Construction and Repair	25
ARTICLE 2 - Use and Care of Streets, Sidewalks and Public Places	27
ARTICLE 3 - Unclaimed and Abandoned Property.....	31
ARTICLE 4 - House Numbering.....	32
ARTICLE 5 - Trees	32
<u>CHAPTER FOUR – FIRE PROTECTION AND PREVENTION</u>	34
ARTICLE 1 - Fire Limits	36
ARTICLE 2 - Fires in Public Places	36
ARTICLE 3 - Fire Prevention	37
ARTICLE 4 - Firearms, Fireworks and Explosives	38
ARTICLE 5 - Adoption of Electrical Code	39
ARTICLE 6 - Penalty for Violation of this Chapter.....	39
<u>CHAPTER FIVE – ZONING – PLANNING</u>	40
ARTICLE 1 - Planning and Zoning	40
<u>CHAPTER SIX - WATER AND SEWER</u>	41
ARTICLE 1 - Utility Established	43
ARTICLE 2 - Water Service	49
ARTICLE 3 - Regulation of Sewer Use	54
ARTICLE 4 - Sewer Surcharge.....	62
ARTICLE 5 - Adoption of State Plumbing Code.....	64
ARTICLE 6 - General Penalty Provision.....	64
<u>CHAPTER SEVEN - BUSINESS REGULATIONS AND LICENSES</u>	65
ARTICLE 1 - General Provisions	67
ARTICLE 2 - Transient Merchants	68
ARTICLE 3 - Hawkers and Peddlers	71
ARTICLE 4 - Runners, Solicitors and Canvassers.....	72
ARTICLE 5 - Alcoholic Beverages.....	72
ARTICLE 6 - Shows, Carnivals and Circuses.....	81
ARTICLE 7 - Validity.....	81
ARTICLE 8 - Penalty	81
<u>CHAPTER EIGHT – HEALTH</u>	82
ARTICLE 1 - Garbage, Refuse, Rubbish	83
ARTICLE 2 - Dangerous Buildings	85

<u>CHAPTER NINE - ANIMALS AND FOWL</u>	90
ARTICLE 1 - General Regulations	91
ARTICLE 2 - Dogs and Cats.....	93
<u>CHAPTER TEN - PUBLIC NUISANCES</u>	97
ARTICLE 1 - Sanitary Nuisances	99
ARTICLE 2 - Smoke - Gases.....	100
ARTICLE 3 - Radio Interference and Noise Control.....	100
ARTICLE 4 - Lot Clearing.....	101
ARTICLE 5 - Noxious Weeds and Tall Grasses	104
ARTICLE 6 - General Penalty Provision	105
ARTICLE 7 - Nuisance Abatement	105
<u>CHAPTER ELEVEN – FRANCHISE</u>	108
ARTICLE 1 - Grant of Franchise	109
<u>CHAPTER TWELVE - BUILDING CODE</u>	110
ARTICLE 1 - General Building Code.....	111
<u>CHAPTER THIRTEEN - ELECTRICAL CODE</u>	112
ARTICLE 1 - Adoption of Electrical Code.....	113
ARTICLE 2 - Permits.....	113
ARTICLE 3 - Supervision of Work	114
<u>CHAPTER FOURTEEN - CEMETERIES</u>	115
ARTICLE 1 - Cemeteries	115
<u>CHAPTER FIFTEEN - PERSONNEL POLICIES</u>	123
ARTICLE 1 - Personnel Policies and Procedures	124
<u>CERTIFICATE</u>	125

CHAPTER ONE
GOVERNMENT ORGANIZATION
MAYOR - COUNCIL CITIES

ARTICLE 1 - Jurisdiction

- 1.0101 Over Persons and Property
- 1.0102 Defining City Limits
- 1.0103 Division of City into Precincts
- 1.0104 City Fines and Penalties Limited

ARTICLE 2 - Governing Body - Board of City Commission

- 1.0201 Regular Meetings
- 1.0202 Special Meetings
- 1.0203 Meeting to be Public - Journal of Proceedings to be Kept
- 1.0204 Quorum
- 1.0205 Reconsidering or Rescinding Votes at Special Meeting
- 1.0206 Rules and Order of Business

ARTICLE 3 - Elective Officers

- 1.0301 City Commission - Who Constitutes
- 1.0302 Term of Office of Council Members
- 1.0303 Mayor - Qualifications - Term
- 1.0304 When President and Vice President of a Council are Elected
- 1.0305 Vacancies on Council or in Office of Mayor - How Filled
- 1.0306 Absence or Disability of Mayor - Who to be Acting Mayor
- 1.0307 Mayor to Preside at Council Meetings - Voting Power of Mayor
- 1.0308 Mayor May Remove Appointive Officers - Reasons for Removal to be Given
- 1.0309 Mayor May Suppress Disorder and Keep Peace
- 1.0310 Mayor to Perform Duties Prescribed by Law - Enforced Laws and Ordinances
- 1.0311 Inspection of Books, Records and Papers of City by Mayor
- 1.0312 Ordinance or Resolution Signed or Vetoed by Mayor
- 1.0313 Message to Council
- 1.0314 Mayor Shall Call on Male Inhabitants to Aid in Enforcing Ordinance
- 1.0315 Police Chief and Policemen Appointed by Mayor
- 1.0316 Mayor May Administer Oath
- 1.0317 Restrictions on Members of Board

ARTICLE 4 - Elective Officers Other than Governing Body

- 1.0401 Municipal Judge
- 1.0402 Report to the City Auditor
- 1.0403 Fees to City Treasury
- 1.0404 Court Hours
- 1.0405 Duties of Municipal Judge
- 1.0406 Victim Witness Fee

ARTICLE 5 - Appointive Offices

- 1.0501 Appointive Officers in Council Cities - Appointment of More Than One Assessor
- 1.0502 Term of Appointive Officers
- 1.0503 General Duties of City Auditor

- 1.0504 General Duties of City Attorney
- 1.0505 General Duties of Other Appointive Officers

ARTICLE 6 - Special Provisions Regarding City Officers

- 1.0601 Bonds of Municipal Officers and Employees
- 1.0602 Oaths of Municipal Officers
- 1.0603 Salaries of Elected Officers Fixed by Ordinance or Resolution
- 1.0604 Salaries of Appointive Officers and Employees
- 1.0605 Meals, Lodging, and Mileage - Amount Allowed
- 1.0606 Personal Interest in Contract by Public Officer - Prohibited
- 1.0607 Retiring Officer to Turn Over Books
- 1.0608 Administrative Policy and Procedure
- 1.0609 Obstructing a Public Official - Prohibited

ARTICLE 7 - Purchasing and Disposition of Property

- 1.0701 Competitive Bidding Requirements
- 1.0702 Procedure
- 1.0703 Open Market Purchases - Emergency
- 1.0704 Accounts Against City to be in Writing
- 1.0705 Further Verification May be Required
- 1.0706 Conveyance, Sale, Lease or Disposal of Property
- 1.0707 Real Property Transfer Requirements

ARTICLE 8 - Municipal Elections

- 1.0801 Qualified Electors in Municipal Elections - Restrictions
- 1.0802 Elections in Council Cities - Polling Places - Polls Open - Notice
- 1.0803 Designation of Polling Places for Municipal Elections
- 1.0804 Compensation of Inspectors, Judges and Clerks at Municipal Elections
- 1.0805 Reference to Party Ballot or Affiliation in Petition of Candidate for Municipal Office - Prohibited
- 1.0806 Petition for Nomination of Elected Official in Municipalities - Signatures Required - Contents
- 1.0807 Ballots in Municipalities - Makeup
- 1.0808 Clerks Appointed to Fill Vacancies - Oath - Powers and Duties of Judges and Clerks of Municipal Elections
- 1.0809 Municipal Elections to be Governed by Rules Applicable to County Elections - Absent Voting
- 1.0810 City Auditor to Notify of Election or Appointments
- 1.0811 New Election Upon Failure to Elect
- 1.0812 Special Elections Conducted in Same Manner as General Elections
- 1.0813 Highest Number of Votes Elects in Municipal Election - Procedure on Tie Vote

ARTICLE 9 - Records Management Policy

- 1.0901 Adoption of Policy
- 1.0902 Amendments, Deletions, Additions to City Records Management Manual

CHAPTER ONE
GOVERNMENT ORGANIZATION
MAYOR – COUNCIL CITIES

ARTICLE 1 - JURISDICTION

1.0101 Over Persons and Property

The jurisdiction of the City of Gladstone 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.

Source: Section 40-06-01 NDCC

1.0102 Defining City Limits

There shall be included within the municipal limits of the City all areas duly platted and recorded as being within said City; all lots and blocks 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. The City Council shall have jurisdiction within the corporate City limits and over any common or public grounds belonging to the City, and in and over all places within one-half mile of the municipal limits for the purpose of enforcing health ordinances and regulations, and police regulations and ordinances adopted to promote the peace, order, safety and general welfare of the municipality.

Source: Section 40-06-01 NDCC

1.0103 Division of City into Precincts

There shall be one precinct within the City to be known and designated as: The City of Gladstone, and said precinct shall consist of all that part of the City of Gladstone which lies within the boundaries hereinafter set forth for each of said precincts and the polling place in each precinct shall be located at the site hereinafter set forth, namely: City limits of the City of Gladstone and the Stark County Courthouse.

Source: Sections 40-21-03 and 40-21-03.1 NDCC

1.0104 City Fines and Penalties Limited

The provisions of Section 40-05-06 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. This section shall not be construed to prohibit the utilization of the sentencing alternatives, other than a fine or imprisonment, provided by NDCC Section 12.1-32-02 for the violation of a City ordinance, nor shall this section limit the use of deferred or suspended sentences pursuant to North Dakota Century Code chapter 12.1-32.

Source: Sections 40-05-06 and 12.1-32-01 (7) NDCC

ARTICLE 2 - GOVERNING BODY - CITY COUNCIL

1.0201 Regular Meetings

The City Council shall meet regularly at the City Hall on the first Monday of each month at the hour of 6:30 PM MT unless some other time and place shall be specifically fixed by the council. The council shall meet in addition thereto, as often as required by section 40-08-10 of the North Dakota Century Code.

Source: Section 40-08-10 NDCC

1.0202 Special Meetings

Special meetings may be called at any time by the mayor or any two (2) members of the governing body to consider matters mentioned in the call of such meetings. Notice of any special meeting shall be given to each member of the governing body at least three hours before the time of the meeting.

Source: Section 40-08-10 NDCC

1.0203 Meeting to be Public - Journal of Proceedings to be Kept

All meetings of the governing body shall be open to the public, and a journal of its proceedings shall be kept. Notice of the regular meeting time or of special meeting shall be given as provided by section 44-04-20 of the North Dakota Century Code and amendments.

Source: Section 40-08-10 NDCC

1.0204 Quorum

A majority of the members of the governing body of a municipality shall constitute a quorum to do business but a smaller number may adjourn from time to time. The governing body may compel the attendance of absentees under such penalties as may be prescribed by ordinance, and may employ the police of the municipality for that purpose.

Source: Section 40-06-03 NDCC

1.0205 Reconsidering or Rescinding Votes at Special Meeting

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

Source: Section 40-06-04 NDCC

1.0206 Rules and Order of Business

Rules and order of business for the parliamentary government of the governing body shall be governed by Robert's Rules of Order.

Source: Section 40-06-05 NDCC

ARTICLE 3 - ELECTIVE OFFICERS

1.0301 City Council - Who Constitutes

The governing body of the City of Gladstone shall be the City Council which shall be composed of the mayor and council members. The mayor and four (4) council members shall be elected as provided by law.

Source: Sections 40-08-05 and 40-13-01 NDCC

1.0302 Term of Office of Council Members

Council members shall hold office for four years and until their successors are elected and qualified. Terms of council members shall be arranged so that only one-half of the council members shall be elected in any one election.

Source: Section 40-08-06 NDCC

1.0303 Mayor - Qualifications - Term

The chief executive officer of the City is the mayor. The mayor shall be a qualified elector within the City and shall hold office for four years and until a successor is elected and qualified.

Source: Section 40-08-14 NDCC

1.0304 When President and Vice President of a Council are Elected

At the organization meeting in each even numbered year, the members of the City Council shall proceed to elect from their number a president and vice president who shall hold their respective offices until their successors are elected at the organization meeting following the next biennial election.

Source: Section 40-08-11 NDCC

1.0305 Vacancies on Council or in Office of Mayor - How Filled

If a vacancy occurs in the office of council member by death, resignation or otherwise, City Council may call a special City Election to fill such vacancy for the unexpired term or may, after fifteen days of the date of such vacancy appoint a person to fill such vacancy until the next City Election, at which election the unexpired term shall be filled. Upon petition of five percent of the electors, as determined by the total number of votes cast in the last general election, the council shall call a special election to fill a vacancy occurring more than six months before the next City Election, provided such petition has been submitted within fifteen (15) days and before 4:00 p.m. of the fifteenth (15th) day of the date of such vacancy or of the vacancy being filled by appointment. If the petition is mailed, it shall be in possession of the council or its representative before 4:00 p.m. on the fifteenth (15th) day after the vacancy occurs or after the vacancy was filled by appointment.

Source: Section 40-08-08 NDCC

If a vacancy occurs in the office of mayor, the City Council may call a special City Election to fill such vacancy for the unexpired term or may, after fifteen days from the date of such vacancy, elect one of its members to act as mayor. The member so elected shall possess all of the rights and powers of the mayor until the next election and until a mayor is elected and qualified. Upon petition of five percent of the electors, as determined by the total number of votes cast in the City in the last General Election, the council shall call a special election to fill a vacancy occurring more than six months prior to the next City Election, provided such petition is submitted within fifteen days of the date of such vacancy. During the interim between date when a vacancy occurs in the office of the mayor and election and qualification of a successor, the president of the City Council shall be acting mayor.

Source: Section 40-08-16 NDCC

1.0306 Absence or Disability of Mayor - Who to be Acting Mayor

During the absence of the mayor from the City or during the mayor's temporary disability, the president of the City Council shall be the acting mayor and shall possess all of the powers of the mayor. In the absence or disability of the mayor and the president of the City Council, the vice president of the City Council shall be the acting mayor.

Source: Sections 40-08-13 and 40-08-17 NDCC

1.0307 Mayor to Preside at Council Meetings - Voting Power of Mayor

The mayor shall preside at all meetings of the City Council, but shall not vote except in case of a tie, when he shall cast the deciding vote.

Source: Section 40-08-18 NDCC

1.0308 Mayor may Remove Appointive Officers - Reasons for Removal to be Given

The mayor may remove any office appointed by him whenever he is of the opinion that the interests of the City demands such removal, but he shall report the reasons for such removal to the council at its next regular meeting.

Source: Section 40-08-19 NDCC

1.0309 Mayor may Suppress Disorder and Keep Peace

The mayor may exercise within the City limits the powers conferred upon the sheriff to suppress disorder and keep the peace.

Source: Section 40-08-20 NDCC

1.0310 Mayor to Perform Duties Prescribed by Law - Enforced Laws and Ordinances

The mayor shall perform all duties prescribed by law or by the city ordinances, and shall see that the laws and ordinances are faithfully executed.

Source: Section 40-08-22 NDCC

1.0311 Inspection of Books, Records and Papers of City by Mayor

The mayor, at any time, may examine and inspect the books, records and papers of any agent, employee or officer of the City.

Source: Section 40-08-23 NDCC

1.0312 Ordinance or Resolution Signed or Vetoed by Mayor

The mayor shall sign or veto each ordinance or resolution passed by the council. Any action vetoed by the mayor may be overridden by the city council.

Source: Section 40-08-24 NDCC

An ordinance or resolution adopted by the city council is not enacted until the ordinance or resolution is approved by the mayor or passed over the mayor's veto. An ordinance or resolution passed by the governing body of a city operating under the council form of government must be deposited in the office of the city auditor for the approval of the mayor. If the mayor approves the ordinance or resolution, the mayor shall sign the ordinance or resolution. An ordinance or resolution not approved by the mayor must be returned by the mayor with the mayor's objections in writing to the next regular or special meeting of the council occurring not less than five days after the passage of the ordinance or resolution. The veto may extend to an entire ordinance or resolution or to any one or more items or appropriations contained in any ordinance or resolution making an appropriation. If a veto extends to only a part of an ordinance or resolution, the residue takes effect. If the mayor fails to return any ordinance or resolution with the mayor's objections within the time specified in this section, the mayor is deemed to have approved the ordinance or resolution. Any veto of an ordinance or resolution may be overridden by the city council, if two-thirds of its members pass a

motion to override the veto. Upon such action, the ordinance or resolution is effective notwithstanding the veto. The vote to pass an ordinance or resolution over the mayor's veto must be taken by yeas and nays and entered in the journal.

Source: Section 40-11-05 NDCC

1.0313 Message to Council

The mayor annually and from time to time shall give the council information relative to the affairs of the City and shall recommend for consideration such measures that he may deem expedient.

Source: Section 40-08-25 NDCC

1.0314 Mayor May Call on Inhabitants to Aid in Enforcing Ordinances

When necessary, the mayor may call on each inhabitant of the City over the age of eighteen years to aid in the enforcing of the laws and ordinances of the City.

Source: Section 40-08-26 NDCC

1.0315 Police Chief and Policemen Appointed by Mayor

The mayor may appoint any number of police officers which he and the City Council may deem necessary to preserve the peace of the City, and he shall appoint one of the number as chief of police. Such appointment shall be subject to approval of the council.

Source: Section 40-08-27 NDCC

1.0316 Mayor May Administer Oath

The mayor of the City may administer oaths and affirmations.

Source: Section 40-08-28 NDCC

1.0317 Restrictions on Members of Board

The provisions of section 40-08-09 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Except as provided herein, a member of the city council may not:
 - a. Be eligible to any other office the salary of which is payable out of the city treasury;
 - b. Hold any other office under the city government; and
 - c. Hold a position of remuneration in the employment of the city.
2. A member of the city council may serve as an ambulance crew member employed by the city or under a contract with the city and be remunerated for those services or as a volunteer firefighter or ambulance crew member for the city and be compensated for attending training or responding to emergency calls or may be reimbursed for expenses incurred in attending training or in responding to emergency calls.
3. A member of the city council in a city having a population of five hundred or fewer may hold a position of remuneration in the employment of the city if no other qualified individual is available to hold the position of remuneration at an equal cost to the city. The decision to employ the member

of the city council must receive the unanimous approval of the other members of the council, and the approval must be documented in the official minutes of the council. This subsection does not apply to appointed officer positions under Section 1.0501.

Source: Section 40-11-05 NDCC

ARTICLE 4 - ELECTIVE OFFICERS OTHER THAN GOVERNING BODY

1.0401 Municipal Judge

There may be a municipal judge who shall perform all the duties prescribed by law and the Ordinances of this City. He or she shall receive such salary as the City shall allow for full compensation for all services rendered.

The municipal judge may be appointed in the event the City shall determine that a District Judge shall act as municipal judge upon assignment of the presiding judge of the judicial district for Stark County. Otherwise the municipal judge shall be elected each four year period.

Source: Sections 40-14-01, 40-18-01 and 40-18-06 NDC

1.0402 Report to the City Auditor

At the end of each month, the municipal judge shall make and file with the city auditor a written report under oath showing an account of all fees, fines, costs, forfeitures, and any other monetary consideration collected by the Court during the preceding month and showing the actions in which the fees were collected. The municipal court shall pay the amount of fees, fines, costs, forfeitures, and any other monetary consideration collection to the City Treasury at the end of each month. The judge's salary may not be paid until the judge has complied with this section. The City may alter this obligation by contract with appropriate authority to administer the Municipal Court system.

Source: Section 40-18-06 NDCC

1.0403 Contents of Report

Such report shall contain the names of the parties to such action or proceeding, a statement of all orders made, whether the defendants be committed, fined or released from custody, the judgment, the extent thereof, the costs, the amount of costs and fine paid, if any, with the disposition thereof, together with an itemized account of any fees of all officers and witnesses and the names of each, the name of each person making the complaint, and the nature and date thereof.

Source: Section 40-18-06 NDCC

1.0404 Receipt to Accompany Report

This report will be accompanied by the duplicate receipt or receipts of the City Auditor for the total amount of the fees and money so collected on behalf of the City.

Source: Section 40-18-06 NDCC

1.0405 Duties of Municipal Judge

Additional duties of the municipal judge shall be as provided by the provisions of North Dakota law.

Source: Chapter 40-18 NDCC

ARTICLE 5 - APPOINTIVE OFFICES

1.0501 Appointive Officers in Council Cities

The mayor, with the approval of the City Council, shall appoint the following officers:

1. city auditor;
2. city assessor;
3. city attorney;
4. city engineer; and
5. such other officers as the City Council deems necessary and expedient.

The city assessor shall be appointed at the first meeting of the City Council in September of each odd numbered year. The City Council, by majority vote, may dispense with any appointive office and provide that the duties of that office be performed by others.

Source: Section 40-14-04 NDCC

1.0502 Term of Appointive Officers

The term of all appointive officers of the City operating under the council form of government shall commence the first day of July succeeding their appointment unless otherwise provided by ordinance, and such officers shall hold their respective offices for two years, and until their successors are appointed and qualified.

Source: Section 40-14-05 NDCC

1.0503 Officers Commissioned by Warrant - City Auditor to Receive Certificate of Appointment

All officers elected or appointed, except the City Auditor, Council Members, and Mayor, must be duly noted in the minute book of the City Council.

Source: Section 40-14-06 NDCC

1.0504 Removal

Appointive officers may be removed and any vacancy may be filled in the manner provided by law. "Acting Officers" may be removed at any time by the governing body.

An acting officer shall serve at the pleasure of the governing body.

Source: Section 40-08-19 NDCC

1.0505 General Duties of City Auditor

It shall be the duty of the city auditor to issue the calls for all special meetings of the City Council when requested to do so by the mayor or any two (2) members of the City Council.

Source: Section 40-08-10 NDCC

The city auditor shall also keep a full and complete record of all meetings of the City Council and shall keep a book titled as the "Ordinance Book" and shall record therein at length all ordinances of the City.

The city auditor shall also keep a book titled as the “Special Assessment Book” in which to keep all records of special assessments. The city auditor shall report to the City Council at the end of every month a list of all warrants, interest coupons, bonds or other evidence of indebtedness which may have been redeemed or paid during the month and shall duly give to the council a copy of the receipt therefore. The city auditor shall further handle all correspondence, permits and licenses and shall do and perform all other duties prescribed by statutes of this state, or by an ordinance, resolution or proper instruction of the City Council.

Source: Section 40-16 NDCC

1.0506 General Duties of City Attorney

The City Attorney shall conduct all the law business of the City and of the departments thereof and shall, when requested, furnish written opinions upon the subjects submitted by the governing body of the city or any other department. The City Attorney shall also draft all ordinances, bonds, contracts, leases, conveyances and such other instruments as may be required by the officers of the City, examine and inspect tax and assessment rolls and all other proceedings in reference to the levying and collection of taxes, keep a docket of all cases to which the city may be a party in any court of record in which must be entered briefly all steps taken in each such case and such docket must be open to public inspection at all reasonable hours, and perform all other duties prescribed by statutes of the state, or by an ordinance, resolution or proper instruction of the city council.

Source: Section 40-20-01 NDCC

1.0507 General Duties of Other Appointive Officers

All other appointive officers shall perform such duties as directed by the City Council, directed by these ordinances or directed or authorized by the laws of the state of North Dakota.

Source: Chapters 40-19 and 40-20 NDCC

ARTICLE 6 - SPECIAL PROVISIONS REGARDING CITY OFFICERS

1.0601 Bonds of Municipal Officers and Employees

The following officers and employees of the City of Gladstone shall be bonded in such sums as the City Council shall approve by resolution:

City Auditor
Such other officers as the governing body may direct.

Said officers or employees shall be bonded in accordance with the provisions of North Dakota law.

Source: Section 40-13-02 NDCC

1.0602 Oaths of Municipal Officers

Every person elected or appointed to any municipal office, before the person enters upon the discharge of the duties thereof, shall take and subscribe the oath of office prescribed for civil officers and, except in the case of the auditor, shall file the same with the city auditor within 10 days after notice of his election or appointment has been given. The oath of the auditor shall be filed in the office of the county auditor. Refusal to take the oath of office shall also be deemed a refusal to serve and, therefore, a failure to qualify for the office pursuant to North Dakota Century Code section 44-02-01.

Source: Sections 40-13-03 and 44-01-05 NDCC

1.0603 Salaries of Elected Officers Fixed by Ordinance or Resolution

Any officer or employee of a municipality shall receive the salary, fees, or other compensation fixed by ordinance or resolution, and after having been once fixed, the same shall not be diminished to take effect during the term for which the officer was elected or appointed.

Source: Section 40-13-04 NDCC

1.0604 Salaries of Appointive Officers and Employees

Salaries of City Appointive Officers and Employees, except as otherwise provided by law, shall be in such sums and amounts as may be fixed from time to time by resolution of the governing body.

Source: Section 40-13-04 NDCC

1.0605 Meals, Lodging, and Mileage - Amount Allowed

No elective or appointive officer, employee, representative, or agent of this City, may willfully make claim upon, or willfully receive, any public funds for traveling expenses, while engaged upon public business, in an amount in excess of that allowed by law for such travel.

Each elective or appointive officer, employee, representative, or agent of this City, or of any of its subdivisions, boards, or commissions may make claim for meals and lodging while engaged in the discharge of a public duty and shall, upon approval of such claim, be paid an allowance for meals and lodging while engaged within this State for the discharge for a public duty away from his or her normal working and living residence for all or any part of any quarter of a day at the rate specified by state law.

Such persons engaged in travel outside state boundaries shall receive such expenses for meals and actual lodging expenses allowed by state law.

Provisions of North Dakota law shall be and are hereby incorporated by reference in this ordinance.

It is the intent of this section to allow reimbursement for mileage and other necessary expenses at the same rate and under the same conditions as provided for state officials and its employees. All travel expenses shall be evidenced by a voucher as approved by the City Council.

Source: Sections 44-08-03 through 44-08-05.1 NDCC

1.0606 Personal Interest in Contract by Public Officer - Prohibited

No municipal officer shall refuse or fail to disclose to the governing board of which he or she is a member, any personal interest, direct or indirect, in any contract requiring the expenditure of municipal funds. Any person who shall violate any provision of this section shall be guilty of an infraction and shall, in addition, be subject to removal from office.

Source: Section 40-13-05.1 NDCC

1.0607 Retiring Officer to Turn Over Books

Any person having been an officer of the City shall, within five days after notification and request, deliver to his successor in office, all property, books and effects of every description in his possession belonging to the City or appertaining to his office; and upon his refusal to do so, shall be liable for all damages caused thereby, and guilty of an infraction.

Source: Section 40-13-10 NDCC

1.0608 Administrative Policy and Procedure

Each officer shall:

1. Perform all duties required of their office by law or ordinance and such other duties not in conflict as may be required by the governing body.
2. Be immediately responsible to the governing body 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 their departments as the governing board may request.
5. Be responsible for the proper maintenance of all City property and equipment used in their departments.
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 department subordinates.
9. Be available during the hours designated by the City governing body.

Source: Section 40-13-11 NDCC

1.0609 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 be guilty of an infraction. Upon conviction, for a violation of this section, such person shall be fined as required by law.

Source: Sections 40-05-01 (33), 40-06-07, and 12.1-08-01 NDCC

1.0610 Consanguinity/Affinity

No person who is related by marriage or birth to the second degree to a City Council member or the Mayor shall be appointed to or employed by any city position unless by unanimous vote of the Council. The same restrictions shall apply to contracts with the city.

Gladstone further adopts by reference NDCC 40-08-09. Restrictions on members of council.

1. Except as provided in subsection 2 of this section, no member of the city council shall:
 - a. Be eligible to any other office the salary of which is payable out of the city treasury;
 - b. Hold any other office under the city government; or
 - c. Hold a position of remuneration in the employment of the city.

2. A member of the city council may serve as an ambulance crew member employed by the city or under a contract with the city and be remunerated for those services or as a volunteer firefighter or ambulance crew member for the city and be compensated for attending training or responding to emergency calls or may be reimbursed for expenses incurred in attending training or in responding to emergency calls.

3. A member of the city council in a city having a population of five hundred or fewer may hold a position of remuneration in the employment of the city if no other qualified individual is available to hold the position of remuneration at an equal cost to the city. The decision to employ the member of the city council must receive the unanimous approval of the other members of the council, and the approval must be documented in the official minutes of the council. This subsection does not apply to appointed officer positions under section 40-14-04.

ARTICLE 7 - PURCHASING AND DISPOSITION OF PROPERTY

1.0701 Competitive Bidding Requirements- Construction of Public Improvement

When the estimated costs for the construction of a public improvement is in excess of two hundred thousand dollars, competitive bidding is required.

Source: North Dakota Century Code sections 48-01.2-04, 48-01.2-02.1

If the estimated cost for construction of a public improvement is in excess of one hundred fifty thousand dollars, plans, drawings and specifications for the improvement shall be procured from an architect or engineer. Plans, drawings, and specifications of an architect or engineer must be stamped and sealed by the date of the initial bid advertisement.

Source: North Dakota Century Code sections 48-01.2-02, 48-01.2-02.1

“Construction” means the process of building, altering, repairing, improving, or demolishing any public structure or building or other improvement to any public property. The term does not include the routine operation or maintenance of existing facilities, structures, buildings, or real property or demolition projects costing less than one hundred fifty thousand dollars.

Source: North Dakota Century Code section 48-01.2-01(4)

“Public Improvement” means any improvement undertaken by a governing body for the good of the public and which is paid for with any public funds, including public loans, bonds, leases, or alternative funding, and is constructed on public land or within an existing or new public building or any other public infrastructure or facility if the result of the improvement will be operated and maintained by the governing body.

Source: North Dakota Century Code section 48-01.2-01(21)

1.0702 Procedure

If the estimated cost for the construction of a public improvement is in excess of two hundred thousand dollars, the governing body shall advertise for bids by publishing for three consecutive weeks. The first publication of the advertisement must be at least twenty-one days before the date of the opening of bids. The advertisement must be published in the official newspaper of the political subdivision in which the public improvement is or will be located, in a daily newspaper having a general circulation in the area where the project is located, and in a trade publication, electronic plan service, builders exchange, or other industry-recognized method of general circulation among the contractors, building manufacturers, and dealers in this state, except the advertisement for a public improvement financed by special assessments need be published only once each week for two weeks in the official newspaper with the first publication being at least fourteen days before the bid opening.

Source: North Dakota Century Code sections 48-01.2-01, 48-01.2-02.1, 48-01.2-04

1.0703 Open Market Purchases - Emergency

When the City governing body declares an emergency situation exists, the governing body may contract for the construction of a public improvement without seeking bids.

Source: North Dakota Century Code section 48-01.2-04

“Emergency situation” means sudden generally unexpected occurrence that requires immediate action to protect public health, safety, or property and which ends when the immediate threat to public health, safety, or property ceases and services are restored. The term does not include a lack of planning on the part of the city council, architect, engineer, landscape architect, or contractor.

Source: North Dakota Century Code section 48-01.2-01(13)

1.0704 Accounts Against City to be in Writing

Accounts, claims and demands against the City for any property or services for which the City shall be liable, shall be made in writing and shall include an itemized statement of the property or services provided.

Source: Sections 40-11-04 and 40-05-01 (52) NDCC

1.0705 Further Verification May be Required

It is hereby provided that any officer of the City Council before whom any bill, claim, account or demand against the City shall come for audit and approval may require to be furnished a statement made under oath, containing such other information as is deemed necessary for the further verification of any bill, claim, account or demand against the City, or any of its undertakings.

Source: Chapter 40-11 and Sections 40-05-01 and 40-05-02 NDCC

1.0706 Conveyance, Sale, Lease or Disposal of Property

Real property belonging to the municipality shall be conveyed, sold, leased or disposed of, only as approved of by a two-thirds vote of all members of the governing body. Personal property shall be conveyed by a majority vote of all members of the governing body. When the property to be disposed of, whether real property or personal property is estimated, by the governing body of the municipality to be of a value of less than \$2,500.00, such property may be sold at private sale upon the proper resolution of the governing body. In all other cases, such property may be sold only at public sale or as provided under section 40-11-04.2 of the North Dakota Century Code

Source: North Dakota Century Code section 40-11-04

Bids for the purchase or lease of real property belonging to the municipality, whether or not advertisement therefore has been made, shall be made directly to the governing body and submitted to the city auditor, who shall present any and all such bids to the governing body at its next regularly scheduled meeting. 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 include the following:

1. Lease of airports or landing fields, or portions thereof shall be under authority granted in chapter 2-02 of the North Dakota Century Code. Said lease shall further be in compliance with regulations and directives of appropriate federal agencies.

2. Conveyance of right of way for any state highway shall be as provided in chapter 24-01 of the North Dakota Century Code.
3. Leasing of oil and gas lands shall be as provided in sections 38-09-02 through 38-09-04 and sections 38-09-14 through 38-09-20 of the North Dakota Century Code.
4. Conveyance of property to a municipal parking authority shall be as provided in section 40-61-05 of the North Dakota Century Code.
5. Lease of public buildings or portions thereof shall be as provided in chapter 48-08 of the North Dakota Century Code.
6. Granting of concessions for cafes, restaurants and confectioneries in public buildings or on public grounds shall be as provided in chapter 48-09 of the North Dakota Century Code.
7. Granting of right-of-way for a railway, telephone lines, electric light system or a gas or oil pipeline system shall be as provided in section 49-09-16 of the North Dakota Century Code.

1.0707 Real Property Transfer Requirements

The provisions of sections 40-11-04.1 and 40-11-04.2 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance.

ARTICLE 8 - MUNICIPAL ELECTIONS

1.0801 Qualified Electors in Municipal Elections - Restrictions

The provisions of section 40-21-01 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. Every resident of a municipality who is qualified to vote therein at general elections may vote at all municipal elections held therein. When elections are held by wards or precincts, no person may vote in any place other than the ward or precinct of which he is a resident.

Source: Section 40-21-03 NDCC

1.0802 Elections in Council Cities - Polling Places - Polls Open - Notice

The provisions of section 40-21-02 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. Biennial municipal elections shall be held on the second Tuesday in June in each even numbered year at such place or places as the City Council shall designate. The polls shall be opened and closed as provided by state law for the opening and closing of polls at primary, general and special elections. Ten days notice of the time and place of holding each election and offices to be filled thereat shall be given by the city auditor by publication in the official newspaper of the City as provided by section 40-01-09 of the North Dakota Century Code.

Source: Section 40-21-03 NDCC

1.0803 Designation of Polling Places for Municipal Elections

The governing body of the City, at the time of calling any general or special municipal election, or prior to the time of registration for said election, if said registration is required by law, shall by resolution, designate such voting precincts and polling places for said election as it may deem necessary for the conduct of the same, and shall, in giving notice of said election, designate such voting precincts and polling places.

Source: North Dakota Century Code section 40-21-03.1

1.0804 Compensation of Inspectors, Judges and Clerks at Municipal Elections

The provisions of section 40-21-05 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. Each inspector, judge or clerk of any regular or special municipal election shall receive compensation as determined for election officials in Section 16.1-05-05. The amounts determined to be due election officials at municipal elections shall be paid from the funds of the municipality holding the election. In the event a special municipal election is held on the same date as a statewide, district wide or countywide election, and if the same election officials perform services for both elections, the City shall not be required to pay the elections officials, except for any extra officials necessary for such special municipal election.

Source: Section 40-21-05 NDCC

1.0805 Reference to Party Ballot or Affiliation in Petition of Candidate for Municipal Office - Prohibited

The provisions of section 40-21-06 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. No reference shall be made to a party ballot or to the party affiliation of a candidate in a petition to be filed or in behalf of a candidate for nomination to a public office in any incorporated City in this state.

Source: Section 40-21-06 NDCC

1.0806 Petition for Nomination of Elected Official in Municipalities - Signatures Required - Contents

The provisions of section 40-21-07 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. A candidate for any public office in the City may be nominated by filing with the city auditor, at least sixty-four days and before four p.m. on the sixtieth day prior to the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last City election. Qualified electors who sign such a petition shall reside within the ward or precinct in and for which such officer is to be elected, if the election is by wards, or within the corporate limits of the City if the officer is elected at large. If a petition is mailed, it must be in the possession of the city auditor before four p.m. on the sixty-fourth day prior to the holding of the election. In no case shall more than three hundred signatures be required, and such signatures may be on separate sheets of paper. Each qualified elector who signs a petition shall add to the petition the petitioner's mailing address.

1.0807 Ballots in Municipalities - Makeup

The provision of section 40-21-08 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. The auditor of the City shall place only the names of the persons nominated upon the ballot. The auditor shall arrange the offices upon the ballot in the order in which they are named in the statutes. The auditor shall determine the arrangement of the names of the candidates upon the ballot by conducting a drawing immediately following the last day for the filing of the nomination papers. The city auditor shall set the date, time and location for conducting the drawing and shall give advance notice of the drawing to the candidates involved.

Source: Section 40-21-08 NDCC

1.0808 Clerks Appointed to Fill Vacancies - Oath - Powers and Duties of Judges and Clerks of Municipal Elections

The provisions of section 40-21-11 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. When necessary, the judges of election at a municipal election shall appoint clerks to fill vacancies. The judges and clerks of a municipal

election shall take the same oath and have the same powers and authority as judges and clerks of general state elections.

Source: Section 40-21-11 NDCC

1.0809 Municipal Elections to be Governed by Rules Applicable to County Elections - Absent Voting

The provisions of section 40-21-13 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. The manner of conducting, voting at, keeping poll lists and canvassing votes at municipal elections, recounts and contests of the results of such elections shall be governed, as nearly as possible and except as otherwise provided in this chapter, by the laws of this state applicable to elections and contests in the case of county officers. Absent voters' ballots must be available in municipal elections in accordance with the provisions of chapter 16.1-07 of the North Dakota Century Code as amended.

1.0810 City Auditor to Notify of Election or Appointments

The provisions of section 40-21-14 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. The city auditor, within five days after the result of an election is declared or the appointment of an officer is made within the municipality, shall notify each person elected or appointed to municipal office of his election or appointment. Within the same period of time, the city auditor shall also notify the state supreme court of the election or appointment of any municipal judge or alternate judge.

Source: Section 40-21-14 NDCC

1.0811 New Election Upon Failure to Elect

The provisions of section 40-21-15 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. If there is a failure to elect an officer required to be elected, the governing body of the municipality may order a new election.

Source: Section 40-21-15 NDCC

1.0812 Special Elections Conducted in Same Manner as General Elections

The provisions of Section 40-21-16 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. Special municipal election to fill vacancies or for any other purpose must be held and conducted by the inspectors and judges of election of several precincts in the same manner and the returns must be made in the same form and manner as at regular municipal elections.

Source: Section 40-21-16 NDCC

1.0813 Highest Number of Votes Elects in Municipal Election - Procedure on Tie Vote

The provisions of Section 40-21-17 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. The person having the highest number of votes for any municipal office shall be declared elected to such office. In case of a tie vote in the election of any municipal officer, a recount must be conducted pursuant to Section 16.1-16-01 of the North Dakota Century Code. If a recount results in a tie vote, the choice shall be determined by a drawing of names in the presence of the governing body of the municipality and in the manner it directs. A candidate involved in a tie vote may withdraw from consideration by signing a written statement to that effect in the presence of the filing officer of the election.

Source: Section 40-21-17 NDCC

ARTICLE 9 - RECORDS MANAGEMENT POLICY

1.0901 Adoption of Policy

The management of records in the City shall meet with the provisions of the records retention schedules published by the Records Management Division of the North Dakota Information Technology Department, a copy of which is on file with the City auditor. The records retention schedules are hereby made a part of this chapter by reference with the exceptions of the sections hereinafter set forth affecting local conditions in the City, which are amended, deleted or added to, for use and application in the City, and the City hereby adopts said records retention schedules as so modified.

CHAPTER TWO

ORDINANCES

ARTICLE 1 - Procedure

- 2.0101 Enacting Clause for Ordinances
- 2.0102 Procedure in Passing Ordinances
- 2.0103 Yea and Nay Vote on Passage - When Required
- 2.0104 Reconsideration or Rescinding Vote
- 2.0105 Publication of Ordinances
- 2.0106 Effective Date of Ordinances
- 2.0107 Effect of Repeal
- 2.0108 Enactment and Revision of Ordinances
- 2.0109 Action for Violation of Ordinance in Corporate Name - Previous Prosecution, Recovery or Acquittal
- No Defense
- 2.0110 Summons to Issue on Violation of Ordinance - When Warrant of Arrest to Issue
- 2.0111 Commitment of Guilty Person for Non-payment of Fines or Costs
- 2.0112 Costs of Prosecution
- 2.0113 Judgment of Conviction
- 2.0114 Refusal to Work
- 2.0115 Fines and Forfeitures for Violation of Ordinances Paid into Municipal Treasury
- 2.0116 Sentencing Alternatives

CHAPTER TWO

ORDINANCES

ARTICLE 1 - PROCEDURE

2.0101 Enacting Clause for Ordinances

The enacting clause for every ordinance adopted by the City of Gladstone shall be "Be it ordained by the City Commission (or Board of City Commissioners) of the City of Gladstone." Such caption, however, may be omitted where the ordinances are published in book form or are revised and digested.

Source: North Dakota Century Code section 40-11-01

2.0102 Procedure in Passing Ordinances

All ordinances shall be read twice and the second reading and final passage shall not be had in less than one week after the first reading. After the first reading and before final passage, an ordinance may be amended. Except as otherwise specifically provided, a majority of all of the members of the governing body must concur in the passage of an ordinance, and in the creation of any liability against the City, and in expending or appropriating money.

Source: North Dakota Century Code section 40-11-02

2.0103 Yea and Nay Vote on Passage - When Required

The yea and nay shall be taken and entered on the journal of the governing body's proceedings upon the passage of all ordinances and upon all propositions creating any liability against the City, or providing for the expenditure or appropriation of money, and in all other cases at the request of any member.

Source: North Dakota Century Code section 40-11-03)

2.0104 Reconsideration or Rescinding Vote

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

Source: North Dakota Century Code section 40-06-04

2.0105 Publication of Ordinances

The title and penalty clause of every ordinance imposing any penalty, fine, imprisonment or forfeiture for violation of its provisions, after the final adoption of such ordinance, shall be published in one issue of the official paper of the municipality.

Source: North Dakota Century Code section 40-11-06

2.0106 Effective Date of Ordinances

Ordinances finally approved by the governing body of a municipality and which require publication shall take effect and be in force from and after the publication thereof, unless otherwise expressly provided in the ordinance. Ordinances which do not require publication shall take effect and be in force from and after the final approval thereof unless otherwise expressly provided therein.

Source: North Dakota Century Code section 40-11-07

2.0107 Effect of Repeal

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

2.0108 Enactment and Revision of Ordinances

The provisions of section 40-11-09 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. The executive officer of a municipality may appoint, by and with the advice and consent of the governing body of the municipality, one or more competent persons to prepare and submit to the governing body for its adoption or rejection, an ordinance for the revision or amendment of existing ordinances or for the enactment of new and additional ordinances for such municipality. The attorney for the municipality, if it has an attorney, shall be appointed as one of the persons to prepare and submit such ordinance. The compensation of the reviser or revisers, including that of the attorney, shall be determined by the governing body and shall be paid out of the municipal treasury. Such revision, including any additional ordinances and amendments to existing ordinances contained therein, may be passed as a single ordinance and may be published in pamphlet or book form, by and under the authority of the governing body of the municipality, and shall be valid and effective without publication in a newspaper or posting.

Source: Section 40-11-09 NDCC

2.0109 Action for Violation of Ordinance in Corporate Name - Previous Prosecution, Recovery or Acquittal - No Defense

The provisions of section 40-11-10 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. Any action brought to recover any fine, to enforce any penalty or to punish any violation of an ordinance of any municipality shall be brought in the corporate name of the municipality as plaintiff. A prosecution, recovery or acquittal for the violation of any such ordinance may not constitute a defense to any other prosecution of the same person for any other violation of any such ordinance, notwithstanding that the different claims for relief existed at the time of the previous prosecution and, if united, would not have exceeded the jurisdiction of the court.

Source: Section 40-11-10 NDCC

2.0110 Summons to Issue on Violation of Ordinance - When Warrant of Arrest to Issue

The provisions of section 40-11-11 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. In all actions for the violation of an 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 an 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.

Source: Section 40-11-11 NDCC

2.0111 Commitment of Guilty Person for Non-payment of Fines or Costs

The provisions of section 40-11-12 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. 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 jail or other place provided by the municipality for the incarceration of offenders until the fine or costs, or both, are fully paid or discharged by labor as provided in Section 40-18-12. The court may not commit a person under this section when the sole reason for his nonpayment of fine or costs,

or both, is his indigence. An order of commitment under this section shall not be for a period in excess of thirty days. As used in this section, "fine" does not include a fee established pursuant to subsection 2 of section 40-05-06 of the North Dakota Century Code.

Source: Section 40-11-12 NDCC

2.0116 Sentencing Alternatives

The provisions of section 40-18-13 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. Subject to section 40-05-06 of the North Dakota Century Code, the municipal judge may use the sentencing alternatives provided by section 12.1-32-02 of the North Dakota Century Code.

Source: Section 40-18-13 NDCC

2.0117 Presumption of Regular Adoption, Enactment, or Amendment of Resolution or Ordinance

Three years after the adoption or amendment of a resolution or the enactment or amendment of an ordinance by the governing body of a city, it is conclusively presumed that the resolution or ordinance was adopted, enacted, or amended and published as required by law.

Source: Section 40-11-09.1 NDCC

2.0118 Fines and Forfeitures for Violation of Ordinances Paid into Treasury

All fines, penalties, and forfeitures collected for offenses against the ordinances of a city, including those fines, penalties, or forfeitures collected as a result of a judgment of a court rendered pursuant to Section 40-18-19 NDCC, shall be paid into the city's treasury at such time and in such manner as may be prescribed by ordinance or contract with appropriate judicial authorities.

Source: Section 40-11-13 NDCC

2.0119 General Penalties for Violation

The City of Gladstone reference to North Dakota Century Code, shall be construed and revised in the same manner as Chapter 12.1-32, North Dakota Century Code, and all subsequent amendments shall be hereby incorporated by reference in this Ordinance.

The Court is to have the power to suspend said sentence or revoke the suspension thereof, defer imposition of the sentence, or defer prosecution by the laws and criminal procedure of the State of North Dakota. Each day any person, firm, association or corporation shall violate any section or provision of any Article shall constitute a separate offense.

CHAPTER THREE

PUBLIC PLACES AND PROPERTY

ARTICLE 1 - Construction and Repair

- 3.0101 Supervision
- 3.0102 Construction and Repair - Permits
- 3.0103 Bond
- 3.0104 Specifications
- 3.0105 Duty of Owner to Maintain
- 3.0106 Application for Permit
- 3.0107 Standards for Issuance of Permit
- 3.0108 Sidewalks Built to Grade Specifications
- 3.0109 Materials and Manner of Construction
- 3.0110 City Contractor

ARTICLE 2 - Use and Care of Streets, Sidewalks and Public Places

- 3.0201 Obstructions - Penalty
- 3.0202 Destruction of City Property - Prohibited - Penalty
- 3.0203 Encroachments
- 3.0204 Openings
- 3.0205 Wires
- 3.0206 Littering - Prohibited
- 3.0207 Burning
- 3.0208 Distributing Hand Bills, Etc.
- 3.0209 Heavy Vehicles
- 3.0210 Removal of Snow and Ice from Sidewalk
- 3.0211 Removal of Snow and Ice by City
- 3.0212 Assessments by Street Commissioner When Work is Done by City
- 3.0213 Snow and Ice Removal Assessments, Publication by Auditor, Hearing by City Governing Board
- 3.0214 Street Cleaning - Snow Removal
- 3.0215 Notice - Snow Removal or Street Cleaning
- 3.0216 Impounding Vehicles and Equipment
- 3.0217 Blocking Streets
- 3.0218 Excavations - Permit
- 3.0219 Guarding of Excavations and Openings
- 3.0220 Application for Excavation Permits
- 3.0221 Fees for Excavation Permits
- 3.0222 Bond - Excavations
- 3.0223 Deposit - Excavations
- 3.0224 Manner of Making Excavations - Notice
- 3.0225 Restoration of Excavations
- 3.0226 Supervision of Excavation Work
- 3.0227 City Buildings, Equipment and Vehicles - Smoking

ARTICLE 3 - Unclaimed and Abandoned Property

- 3.0301 Unclaimed and Abandoned Property - Defined
- 3.0302 Seizure of Unclaimed or Abandoned Property
- 3.0303 Holding of Personal Property - Notice of Sale
- 3.0304 Report of Abandoned Property Sale
- 3.0305 Bill of Sale - Abandoned Property
- 3.0306 Proceeds of Sale - Abandoned Property
- 3.0307 Redemption of Personal Property

3.0308 Annual Report - Unclaimed and Abandoned Property

ARTICLE 4- House Numbering

3.0401 House Numbering Required

3.0402 Numbers on Houses

ARTICLE 5 - Trees - Shade Tree Committee

3.0501 Definitions - Street Trees and Park Trees

3.0502 Establishment of a Shade Tree Committee - Terms - Compensation

3.0503 Operation and Duties of the Shade Tree Committee

3.0504 Tree Care - Tree Topping

3.0505 Review by City Governing Body

CHAPTER THREE

PUBLIC PLACES AND PROPERTY

ARTICLE 1 - CONSTRUCTION AND REPAIR

3.0101 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 street superintendent, who 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.

3.0102 Construction and Repair - Permits

It shall be unlawful to construct, reconstruct, alter, grade or repair any public street, sidewalk, driveway, curb or gutter without having first secured a permit therefore, unless said work is performed by the City contractor. 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.

3.0103 Bond

Each applicant shall file a bond in the amount to be established by the City Council with surety to be approved by the governing body conditioned to indemnify the City for any loss or damage resulting from the work undertaken or the manner of doing the same.

3.0104 Specifications

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

3.0105 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 to maintain such sidewalks, the city engineer or street superintendent shall direct the owner to make such repairs as may be necessary to restore such sidewalk to a safe condition. Should the owner fail, within a reasonable time, to follow the directions of the city engineer or street superintendent, the city engineer or street superintendent shall report the facts to the governing body, which may then proceed as provided in chapter 40-29 of the North Dakota Century Code.

3.0106 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. Name and address of the party doing the work.
3. Location of the work area.
4. Attached plans or sufficient sketches showing details of the proposed alterations.

5. Estimated cost of the alterations.
6. Such other information as the city engineer or street superintendent shall find reasonably necessary to the determination whether a permit should be issued hereunder.

3.0107 Standards for Issuance of Permit

The city engineer or street superintendent shall issue a permit hereunder when it is determined:

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.

3.0108 Sidewalks Built to Grade Specifications

All sidewalks shall be constructed in accordance with the elevations and grade therefore to be furnished by the city engineer and shall be constructed under the direction and supervision of the city engineer or under the direction and supervision of the street superintendent. All sidewalks shall meet the following requirements:

1. All sidewalks shall be constructed of concrete.
2. All sidewalks in residential areas shall be constructed not less than five (5) feet in width and shall have a minimum slope one-fourth (1/4) inch per foot from the inside edge toward the street.
3. All sidewalks shall be at least four (4) inches in thickness.
4. All sidewalks shall be laid out as follows:
 - a. In locations where the right-of-way is sixty (60) feet or less the sidewalks shall be constructed on the property line.
 - b. In locations where the right-of-way is greater than sixty (60) feet the sidewalk shall be constructed eighteen (18) inches out from the property line.
 - c. In no case in the residential district shall the sidewalk be constructed adjacent to the curb unless right-of-way and topographic features require it.
 - d. Notwithstanding any other provision herein all sidewalks shall be set out so that they are in conformity with existing sidewalks to which they may attach.
5. All sidewalks in commercial and/or industrial districts shall be constructed from the property line to the back of the curb and the width of sidewalk shall be governed by the width of street section; provided however, in areas where commercial development is not complete the entire sidewalk need not be constructed, a section six (6) feet in width adjacent to the curb shall be constructed thus leaving an area for structural foundations.

3.0109 Materials and Manner of Construction

The kind and quality of material used, and the manner in which driveways, curb and gutter, relaying of block walks and paving repairs shall be constructed, shall be determined by the city engineer.

3.0110 City Contractor

The city auditor shall receive bids for the construction of sidewalks, driveways, curb and gutter and paving repairs as the City may find necessary to have done. Such bids shall be made upon blanks furnished by the city engineer or street superintendent and shall conform to specifications filed with the city auditor by the city engineer or street superintendent and approved by the governing body.

All sidewalks, driveways, curb and gutter and alley returns lying between the property line and the abutting street hereafter constructed within the City must conform to this chapter, and the specifications filed with the city engineer, and approved by the governing body must specify the details with respect thereto. When any contract for the construction of sidewalks, driveways, curb and gutter, relaying of block walks and paving repairs is about to be entered into by the City in accordance with the provisions of the laws of this state, the contractor to whom any such contract shall be awarded shall be required, before such contract is entered into, to give in addition to the contract bond required by the laws of the state of North Dakota, an additional bond in an amount to be determined by the governing body, running to the City, conditioned that said contractor shall satisfactorily comply with the specifications for construction.

ARTICLE 2 - USE AND CARE OF STREETS, SIDEWALKS AND PUBLIC PLACES

3.0201 Obstructions - Penalty

It shall be unlawful for any person, firm or corporation to cause, 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 street commissioner. Any person violating the provisions of this section shall be guilty of an infraction and upon conviction thereof, shall be fined up to one thousand dollars (\$1,000.00).

3.0202 Destruction of City Property - Prohibited - Penalty

It shall be unlawful for any firm, person or corporation to willfully and without just cause or excuse, to injure, deface or destroy any property owned by the City or held by the City for public use. Any person violating the provisions of this section shall be guilty of a Class B misdemeanor and be fined not more than one thousand five hundred dollars (\$1,500.00) or up to thirty (30) days in jail or by both.

3.0203 Encroachments

It shall be unlawful to erect or maintain any building or structure that encroaches upon any public street or property.

3.0204 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 governing body. All such lawfully maintained openings shall be guarded by a suitable strong cover or railing to be approved by the street superintendent or the city engineer or the official who supervises public improvements.

3.0205 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 permissions from the City governing body. Any person or company which maintains poles and wires in the streets, alleys or other public places, shall, in the absence of provisions 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 city engineer or street superintendent, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

3.0206 Littering - Prohibited

No person, firm or corporation shall throw or deposit or cause to be thrown or deposited any garbage, glass, bottles, boxes or rubbish of any kind upon any street or alley in the City.

3.0207 Burning

It shall be unlawful for any person, firm or corporation to burn any leaves, paper, rubbish or other substances upon any of the public streets, sidewalks or alleys in the City.

3.0208 Distributing Hand Bills, Etc.

The scattering, throwing or placing of bills, posters, advertising matter, hand bills and other similar items on private premises, sidewalks, streets or other public places in the City must be done in such a manner so as to prevent the items from being blown about these premises, sidewalks, streets or other public places. Any person or entity violating the provisions of shall be assessed an administrative fee to be established by the City.

3.0209 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 any engine, tractor, wagon, truck or other vehicle, object or thing which will tend to injure the paving, sidewalks, crosswalks, culverts, bridges or viaducts over which the same are transported, or which exceeds in weight 16,000 pounds per axle and exceeds 750 pounds per inch of tire widths, 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 City governing body. The City shall the authority to adopt any road restrictions implemented by Stark County which may be more restrictive than those identified in the aforementioned sentences. Violators shall pay or cause to be paid to said City, upon demand, any and all damages done to the paving, sidewalks, crosswalks, culverts, bridges or viaducts. When the specified load limits herein contained will cause damage to the City's paved streets, the City governing body, by resolution adopted, may lower said load limits for such period of time as it may deem necessary. The provisions of this section shall not apply to state and federal highways through the City.

3.0210 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 to remove from the sidewalk in front of or along the same, any ice or snow which forms, accumulates or obstructs such sidewalk, within twenty-four (24) hours after the ice forms or the snow ceases to fall thereon. Where the ice accumulated is of such character as to make the removal thereof practically impossible, the sprinkling of ashes or sand 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.

3.0211 Removal of Snow and Ice by City

In case the owner of any lot in the City refuses or neglects to remove such ice and snow from the sidewalk in front of or along a lot therein, within the same time above stated or refuses to sprinkle ashes or sand 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 superintendent of the City, or ashes or sand sprinkled thereon, and the necessary expenses shall be charged

against the abutting property by special assessment in the manner prescribed by law. (Source: North Dakota Century Code section 40-29-18)

3.0212 Assessments by Street Superintendent When Work is Done by City

Whenever the street superintendent shall, pursuant to Section 3.0211 of this article, remove or cause to be removed any snow or ice from any sidewalk or sidewalks along or in front of any building, grounds or premises, the street superintendent shall assess the cost of the same against said property, and on or before the first day of May in each year, make and file in the office of the city auditor a list showing separately the amount chargeable and assessed against each lot and tract and stating the name of the owner of each lot or tract as know to the street superintendent. (Source: North Dakota Century Code section 40-29-18)

3.0213 Snow and Ice Removal Assessments, Publication by Auditor, Hearing by City Governing Board

The city auditor shall give notice by publication in the official newspaper of the hearing and confirmation of such report and assessment at the regular June meeting of the City governing board, notifying all persons objecting thereto to appear and present their objections. The notice shall be published once each week for two (2) consecutive weeks, the last publication to be not less than eight (8) days before the date fixed for the hearing. At the June meeting of the City governing board or at such later meeting as the hearing and confirmation of such assessment may be adjourned to, the City governing board shall consider said assessment and shall hear any objections thereto or to any part thereof, and after revising and correcting the same, if necessary, it shall approve and confirm the list. The city auditor shall attach to such list the city auditor's certificate that the same is correct as confirmed by the City governing board and shall file the same in the city auditor's office. The assessment shall be certified to the county auditor by the city auditor in the manner provided in section 40-24-11 of the North Dakota Century Code. (Source: North Dakota Century Code section 40-29-19, 40-29-20)

3.0214 Street Cleaning - Snow Removal

Whenever, in the judgment of the governing body or the city engineer or street superintendent of the City, it shall be necessary that streets, alleys or public ways in the City shall 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 motor 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.

3.0215 Notice - Snow Removal or Street Cleaning

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 superintendent the area and streets to be cleared, cleaned or marked and the time during which such activity will be done by the posting of such information in the area affected or some other means of public notice.

3.0216 Impounding Vehicles and Equipment

Whenever any parked automobile, truck, machinery, vehicle or 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 automobile, truck, machinery, vehicle or equipment from the place where impounded without first paying the cost of such impounding.

3.0217 Blocking Streets

No driver of any 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 of said street, alley, lane or avenue, so as to prevent the free passage of persons traveling or passing on foot.

3.0218 Excavations - Permit

It shall be unlawful for any person, firm or corporation, except public utilities which have received a franchise from the City, 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 and complying with the provisions of this article and the terms of any such permit.

3.0219 Guarding or Excavations and Openings

It shall be unlawful for any person within the City limits to leave or keep open, uncovered or unguarded any cellar door, pit, grating, vault or other subterranean passage opening from, into or upon any street, alley or sidewalk, or upon any private property if not suitably guarded.

3.0220 Application for Excavation Permits

Applications for excavation permits shall be made to the city auditor and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefore, and the person, firm or corporation doing the actual excavating work and the name of the person, firm or corporation for 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.

3.0221 Fees for Excavation Permits

The fee for excavation permits shall be set by resolution adopted by the City Council.

3.0222 Bond - Excavations

No excavation permit shall be issued unless and until the applicant therefore has filed with the city auditor a bond in the sum of ten thousand dollars (\$10,000.00), conditioned to indemnify the City for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing any such tunnel or excavations. Such bond shall have as surety a corporation licensed to do business in the state as a surety company.

3.0223 Deposit - Excavations

No excavation permit shall be issued unless and until the applicant therefore has deposited with the city auditor a cash deposit or bond in the sum of \$50.00 if no pavement is involved, and the sum of \$25.00 if pavement is involved, to insure the proper restoration of the area involved. Any balance will be returned to the applicant without interest after the excavation area is restored.

3.0224 Making Excavations - Notice

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 therefore. 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 unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

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. Notice shall be given as required by chapter 49-23 of the North Dakota Century Code.

3.0225 Restoration of Excavations

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. Any 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 street superintendent or city engineer.

3.0226 Supervision of Excavation Work

The street superintendent or 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 the street superintendent or city engineer at least ten (10) hours before the work of refilling any such tunnel or excavation is begun.

3.0227 City Buildings, Equipment and Vehicles - Smoking

Smoking is not permitted in City buildings, equipment and vehicles, except as provided under state law. (Source: North Dakota Century Code sections 23-12-09 through 23-12-11)

ARTICLE 3. UNCLAIMED AND ABANDONED PROPERTY

3.0301 Unclaimed and Abandoned Property - Defined

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

3.0302 Seizure of Unclaimed or Abandoned Property

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 superintendent or other officer of the City.

3.0303 Holding of Personal Property - Notice of Sale

Abandoned personal property shall be held by the City for a period of not less than sixty (60) days after its seizure as provided herein, and after the expiration of said sixty (60) days the city auditor shall cause notice to be published in the official newspaper 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 ten (10) days from and after the date of the publication of such notice and the hour, date and place where said sale will be held. If prior approval is obtained from the city governing body such unclaimed or abandoned property may be sold at a community auction provided that the chief of police or a police officer shall be responsible for the notice and reporting requirements of this article.

Source: North Dakota Century Code section 40-05-02(20)

3.0304 Report of Abandoned Property Sale

At the time specified in said notice the said property shall be sold by the Stark County Sheriff or by any police officer designated by him, at public auction, to the highest bidder for cash. The officer making the

sale shall make a report thereof to the city governing body. The 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. The 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. The officer upon filing the report shall pay to the city auditor the proceeds of said sale.

3.0305 Bill of Sale - Abandoned Property

Upon the receipt of the report as specified in section 3.0304 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 presiding officer of the governing body and attested by the city auditor and delivered to the purchaser.

3.0306 Proceeds of Sale - Abandoned Property

The city auditor shall retain such money as is received from such sales in a separate account for a period of six (6) months from and after the time of such sale and if 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.

3.0307 Redemption of Personal Property

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.

Source: North Dakota Century Code section 40-05-02, subsection 20

3.0308 Annual Report - Unclaimed and Abandoned Property

The Stark County Sheriff or other police officer named by the City Council, prior to June 1 of each year shall submit to the city auditor a written list of all unclaimed and abandoned property held by the City which has not been sold pursuant to the provisions of this article. The city auditor shall bring such list to the attention of the governing body at the next regular meeting.

ARTICLE 4 - HOUSE NUMBERING

3.0401 House Numbering Required

All lots, buildings and structures in the City shall be numbered in accordance with the following plan: Even numbers are on the north side of the street; odd numbers are on the south side of the street. Even numbers are on the west side of avenues; odd numbers are on the east side of avenues. Numbering starts with Number 100 on the east side of the City.

3.0402 Numbers of Houses

It shall be the duty of the owner 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 (2 ½) inches high, showing the number of the house.

ARTICLE 5 – Trees

3.0501 Definitions – Street Trees and Park Trees

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

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

3.0502 Tree Care – Tree Topping

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. It shall be unlawful as a normal practice to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree’s crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged or certain trees under utility wires or obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Shade Tree Committee.

CHAPTER FOUR

FIRE PROTECTION AND PREVENTION

ARTICLE 1 - Organization and Regulation of the Fire Department

- 4.0101 Establishment of Fire Department
- 4.0102 Supervision by Fire Chief
- 4.0103 Volunteer Fire Department
- 4.0104 Officers of Fire Department
- 4.0105 Chief of Fire Department – Powers, Salary
- 4.0106 Duties of Fire Chief
- 4.0107 Fire Chief to Report New Equipment Needed
- 4.0108 Police Powers of Fire Department
- 4.0109 Unlawful to Hinder Fire Department
- 4.0110 Right of Way - Fire Department Vehicles
- 4.0111 Driving Over Fire Hoses
- 4.0112 False Alarms of Fire
- 4.0113 Taking Fire Equipment
- 4.0114 Entering Fire Department
- 4.0115 Fire Department Service Outside Corporate Limits

ARTICLE 2 - Fire Limits

- 4.0201 Fire Limits
- 4.0202 Fire Limits - Erection of Buildings Within
- 4.0203 Alterations and Additions in Fire Limits
- 4.0204 Inspection of Premises, Materials, Order
- 4.0205 Repairs to Damaged Buildings

ARTICLE 3- Fires in Public Places

- 4.0301 Smoking - Setting Fires
- 4.0302 Notice - Smoking Ordinance
- 4.0303 Bonfires Prohibited - Exception
- 4.0304 Hot Ashes and Other Dangerous Materials - Depositing of
- 4.0305 Open Burning Prohibited
- 4.0306 Reports of Hotel or Apartment Fires

ARTICLE 4 - Fire Prevention

- 4.0401 Adoption of Fire Code
- 4.0402 Amendments, Additions and Deletions Made in Fire Code
- 4.0403 Enforcement of Fire Prevention Code
- 4.0404 Storage of Flammable Liquids
- 4.0405 Storage of Liquefied Petroleum
- 4.0406 Modifications of Fire Code
- 4.0407 Appeals from Decisions of Fire Chief

ARTICLE 5 - Firearms, Fireworks and Explosives

- 4.0501 Firearms not to be Furnished to Minors
- 4.0502 Exploding Firearms
- 4.0503 Blank Cartridges, Pistols, Etc. - Manufacture, Use and Sale of
- 4.0504 Fireworks Defined
- 4.0505 Fireworks - Discharging of, Sale of

4.0506 Exceptions to Fireworks Restrictions

ARTICLE 6 - Adoption of Electrical Code

4.0601 Electrical Code Adopted

ARTICLE 7 - Penalty for Violation of this Chapter

4.0701 Penalty - Violations of Fire Protection and Prevention Chapter

**CHAPTER FOUR
FIRE PROTECTION AND PREVENTION**

ARTICLE 1- FIRE LIMITS

4.0101 Fire Limits

All that portion of the City of Gladstone 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 Gladstone.

4.0102 Fire Limits – Erection of Buildings Within

No buildings or parts of any buildings shall be erected within the fire limits unless the construction meets the provisions of the North Dakota State Building Code, which is the office building code of the City. Outbuildings may be erected of any other material, not necessarily of fireproof qualities, by obtaining a permit from the City governing board upon application therefore which may be granted or refused in the city's governing board's discretion.

4.0103 Alterations and Additions in Fire Limits

Within the fire limits no buildings or structure of frame construction or of unprotected metal construction shall be hereafter extended on any side unless the construction of such extension conforms to all requirements of this article for new construction. All ordinary construction buildings and all frame buildings hereafter built or altered in which the lower stories or portions thereof are used for business, and the stories above for residence purposes shall have all partitions and ceilings separating the business portions from the residence portions covered with metal lath and plaster or other equivalent fireproofing material.

4.0104 Inspection of Premises, Materials, Order

The building official, or chief of fire department, or other designated official, shall as often as practical, inspect all buildings or structures during construction for which a permit has been issued to see that the provisions of law are complied with and that construction is prosecuted safely. All building materials shall be of good quality and shall conform to generally accepted standard specifications. Whenever in his opinion, by reason of defective or illegal work in violation of a provision of this article the continuance of a building operation is contrary to public welfare, he may order all further work to be stopped and may require suspension of work until the condition in violation has been remedied.

4.0105 Repairs to Damaged Buildings

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 percent (50%) of its value. Any existing frame building damaged by fire otherwise over fifty percent (50%) of its value shall be torn down and removed.

ARTICLE 2 - FIRES IN PUBLIC PLACES

4.0201 Smoking - Setting Fires

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 to property in any way or to any extent shall be guilty of violating this article.

4.0202 Notice - Smoking Ordinance

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 advising tenants of the provisions of this chapter.

4.0203 Bonfires Prohibited - Exception

No person shall kindle, maintain or assist in maintaining any bonfire or other exposed fire within the City except under the written permit of the chief of the fire department under proper safeguards as the chief may direct. Permits may be granted only on condition that such permit carries an obligation on the part of the grantee to keep a sufficient safe control of said fire and to be responsible for all damages therefrom, and that all resultant embers shall be extinguished and the hot ashes removed or wet down at the close of said fire.

4.0204 Hot Ashes and Other Dangerous Materials - Depositing of

Ashes, smoldering coals or embers, greasy or oily substances and other matter liable to spontaneous ignition shall not be deposited or allowed to remain within ten (10) feet of any combustible materials or construction made up of combustible materials, except in metal or other non-combustible receptacles. Such receptacles shall be placed on non-combustible stands, unless resting on a non-combustible floor or on the ground outside the building, and shall be kept at least two (2) feet away from any combustible wall or partition.

4.0205 Open Burning Prohibited

No person shall kindle, maintain or burn any garbage or other refuse either openly or in containers if such burning is prohibited by state law or proclamation.

4.0206 Reports of Hotel or Apartment Fires

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

ARTICLE 3 - FIRE PREVENTION

4.0301 Adoption of Fire Codes

There is hereby adopted by the City of Gladstone for the purposes of prescribing regulations governing conditions hazardous to life and property from fire or explosions, that certain code known as the North Dakota Fire Code and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which code a copy is on file in the office of the city auditor and the same is hereby adopted and incorporated in full as if set out length herein.

The fee for any permit or license required by the fire prevention code, where no other license or permit fee is fixed elsewhere in the city ordinances, shall be designated by the fire chief of the Gladstone Consolidated Fire Department to be paid to the chief of the fire department.

4.0302 Enforcement of Fire Prevention Code

1. The fire prevention code shall be enforced by the Gladstone Consolidated Fire District under supervision of the chief of the fire department.
2. The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary.

4.0303 Storage of Flammable Liquids

No new bulk plants or tanks for storage of flammable liquids shall be permitted within the limits of the City except in the following established area: any areas zoned commercial.

4.0304 Storage of Liquefied Petroleum

The limits or area for storage of liquefied petroleum shall comply with the limits established in Section 4.0303.

ARTICLE 4 - FIREARMS, FIREWORKS AND EXPLOSIVES

4.0401 Firearms not to be Furnished to Minors

It shall be unlawful for any person, firm or corporation to sell or rent firearms to minors within the limits of this City.

4.0402 Exploding Firearms

It shall be unlawful for any person or persons to fire or discharge within the city limits of this City, any cannon, gun, fowling piece, pistol or other firearms of any description without the written permission of the City governing board which permit shall limit the time of such firing and be subject to revocation by the City governing board at any time after being granted. Provided, however, that nothing in this section shall be construed to apply to the firing of any gun or other firearms when done in cases of actual necessity or in the performance of lawful duty or by militia companies or veterans' organizations when on parade.

4.0403 Blank Cartridges, Pistols, Etc. - Manufacture, Use and Sale of

No person except a licensed dealer shall manufacture, use, sell or keep for sale within the City any blank cartridges, pistols, blank cartridge revolver or other blank cartridge firearms, blank cartridge caps containing dynamite or firecrackers exceeding three (3) inches in length and exceeding one-half (1/2) inch in diameter.

4.0404 Fireworks Defined

As used in this article, the term "fireworks" means any substance or combination of substances or articles prepared for the purpose of producing a visible or an audible effect by explosion or detonation and includes blank cartridges, toy cannons and toy canes in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, sky rockets, roman candles, daygo bombs or other fireworks of like construction, and any fireworks containing any explosive or compound, or any tablets, or other device containing any explosive substance and commonly used as fireworks. The term "fireworks" does not include toy pistols, toy guns in which paper caps containing twenty-five hundredths grains or less of explosive compound are used, and toy pistol caps which contain less than twenty-five hundredths of a grain of explosive composition per cap. (Source: North Dakota Century Code section 23-15-01)

4.0405 Fireworks - Discharging of, Sale of

The sale, use, firing or discharging of any rocket, firecracker, torpedoes, roman candles or of any such "Fourth of July" explosives whatsoever, or fireworks within the City limits is expressly prohibited at any time whatsoever, except as provided by state statute or as may be set by resolution as adopted by the City Council. .

4.0406 Exceptions to Fireworks Restriction

Nothing in this article shall be construed to prohibit the sale or use of fireworks to airplanes, railroads and other transportation agencies for signal purposes or illumination or the sale or use of blank cartridges for a show or theater or for signal or ceremonial purposes in athletics or sports or for use by military organizations.

ARTICLE 5 - ADOPTION OF ELECTRICAL CODE

4.0501 Electrical Code Adopted

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

ARTICLE 6 - PENALTY FOR VIOLATION OF THIS CHAPTER

4.0601 Penalty - Violations of Fire Protection and Prevention Chapter

Any person who shall violate any provisions of this chapter or fail to comply therewith or who shall violate or fail to comply with any order made thereunder or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder and from which no appeal has been taken or who shall fail to comply with such an order as affirmed or modified by the governing body or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be punishable by a fine of not more than one thousand five hundred dollars (\$1,500.00) or by jail for not to exceed thirty (30) days or by both such fine and jail. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

CHAPTER FIVE

ZONING - LAND USE PLANNING

ARTICLE 1 - Planning and Zoning

5.0101 Adoption of Code

The City of Gladstone Zoning Code and any future updates and amendments to that code, a copy of which is on file with the city auditor, is hereby adopted and made a part of this chapter by reference with the exception of the following sections affecting local conditions in the City.

5.0102 Clarification of Code

For the purpose of clarifying the Zoning Code adopted above.

1. "Municipality" or "City" shall mean the City of Gladstone.
2. Any reference to fire limits within the City shall mean the fire limits set out in Chapter Four.

5.0103 Fees

Fees under the Zoning Code shall be set by resolution by the City.

5.0104 Penalties

A person or entity found violating this Chapter shall be fined, upon a finding by a preponderance of the evidence, One Hundred Dollars (\$100.00) for each and every day such violation of this Chapter shall continue. Each and every day shall constitute and be considered a separate offense.

Source: Section 40-05-01 (1), 40-05-02 (6, 7, 23), 54-21.3-03, 54-21.3-05, and Chapters 54-21.2 and 54 21.3 generally, NDCC

CHAPTER SIX
WATER AND SEWER

ARTICLE 1 - Utility Established

- 6.0101 Water And Sewer Department Established
- 6.0102 City Water and Sewer Department to be Independent Agency
- 6.0103 Scope of Utility
- 6.0104 Service Charges - Use of
- 6.0105 Policy on Improvements - Extensions
- 6.0106 Utility Fund - Separate Accounts
- 6.0107 Provisions for Financing Capital Improvements
- 6.0108 Agreements with Bond and Warrant Purchasers

ARTICLE 2 - Water Service

- 6.0201 Water System
- 6.0202 Superintendent of City Water and Sewer Department
- 6.0203 Reports
- 6.0204 Application for Water Service and Service Connection Charge
- 6.0205 Water Service - To Property Not Previously Assessed
- 6.0206 Subsequent Connection to Premises
- 6.0207 Separate Connections for each Premises - Exception
- 6.0208 Service Outside City Limits - Prohibited - Exception
- 6.0209 Service in Unplatted Areas
- 6.0210 Water Service - Construction of - Maintenance of by Owner
- 6.0211 Water Meters - Checked
- 6.0212 Unlawful to Use Water Not Metered - Unlawful to Tamper with Curb Cock
- 6.0213 Defective Service - Consumers Duty to Report
- 6.0214 Users Consent to Regulations
- 6.0215 Regulations Governing Service
- 6.0216 Connection to be Supervised by City Employees
- 6.0217 Service Pipes Specifications
- 6.0218 Curb Cock Specifications
- 6.0219 Check Valves Required When Necessary
- 6.0220 Use of Water During Fire - Unlawful
- 6.0221 Waterworks Customers May Lay Larger Pipes with Hydrants - When
- 6.0222 Rates and Charges
- 6.0223 Rates and Charges - Liability for
- 6.0224 Duty to Report to Auditor
- 6.0225 Excavators
- 6.0226 Restriction of Use of Water

ARTICLE 3 - Regulation of Sewer Use

- 6.0301 Purpose
- 6.0302 Definitions
- 6.0303 Use of Public Sewers Required
- 6.0304 When Private Sewage Disposal Permitted
- 6.0305 Building Sewers and Connections
- 6.0306 Use of Public Sewers
- 6.0307 Damage to Sewer Works Prohibited
- 6.0308 Powers and Authority of Inspectors
- 6.0309 Hearing Board
- 6.0310 Penalties

6.0311 Validity

ARTICLE 4 - Sewer Surcharge

- 6.0401 Purpose
- 6.0402 Determining the Total Annual Cost of Operation and Maintenance
- 6.0403 Determining Each User's Wastewater Contribution Percentage
- 6.0404 Determining a Surcharge System for Users with Above Normal Volume, BOD and TSS
- 6.0405 Surcharge Rate Schedule for Above Normal Volume of Wastes
- 6.0406 Surcharge Rate Schedule for Above Normal Strength Wastes
- 6.0407 Determining Each User's Wastewater Service Charge
- 6.0408 Payment of the User's Wastewater Service Charge
- 6.0409 Review of Each User's Wastewater Service Charge
- 6.0410 Wastes Prohibited from Being Discharged to the Wastewater System

ARTICLE 5 - Adoption of State Plumbing Code

- 6.0501 Adoption
- 6.0502 Plumbing Code - Enforcement of Provisions
- 6.0503 Plumbing Code - Changes in Existing Installations
- 6.0504 Plumbing Code - New Installations

ARTICLE 6 - General Penalty Provisions

- 6.0601 Penalty for Violation of Chapter

Resolution Establishing Water and Sewer Service Charges

Appendix A

Surcharge Rate Schedule for Above Normal Strength Wastes

CHAPTER SIX
WATER AND SEWER

ARTICLE 1 - Utility Established

6.0101 Water and Sewer Department Established

There is hereby established and created within the City a department to be known as the City Water and Sewer Department. The department shall have general charge of all plants, systems, works, instrumentalities, equipment, materials, supplies, sewage disposal plants, lagoons, intercepting sewer, trunk connections, sewer and water mains, filtration works, pumping stations and all parts and appurtenances of the foregoing which are used or useful in connection with the collection, treatment and disposal of sewage, waste and storm sewers for the inhabitants of this City, subject to all ordinances, rules and regulations.

6.0102 City Water and Sewer Department to be Independent Agency

All of the business affairs of the City Water and Sewer Department shall be conducted, insofar as is possible within the ordinances of the City, as a completely separate and distinct division of the City. Separate and distinct accounts shall be set up on the books of the city auditor. These accounts shall at all times reflect the true condition of the Water and Sewer Department, as distinct from the remaining business of the City and shall be so devised as to disclose the annual profit or loss of the department. The funds of the department shall be held in the custody of the city auditor and disbursed upon warrant in the same manner as other funds, but the Water and Sewer Department shall be given credit upon the books of the City for any and all funds paid by it into the City treasury and shall be charged on the books of the City with all payments made by the City on its behalf. Transfers from the Water and Sewer Department to the General Fund or any other fund of the City shall not be made except upon order of the governing body nor shall transfer be made from City funds to the Water and Sewer Department without like order.

Source: North Dakota Century Code section 40-33-12

Where bonds have now been, or may hereafter be issued against any water works improvement or sewage improvement, which constitute a general obligation of the City, the taxes levied for the payment of such bonds and interest shall be levied and expended for such purpose in the manner provided by law, until such time as it may be possible out of the proceeds of the Water and Sewer Department, after setting up a reasonable reserve for depreciation and new construction, to make payment of the bond requirements from the profits of the Water and Sewer Department. It is expressly declared to be the purpose of this ordinance that as soon as the same can be accomplished without undue burden to the water users of this City, the Water and Sewer Department shall be placed upon an entirely independent basis as a separate business enterprise.

6.0103 Scope of Utility

The properties of the City Water and Sewer Department 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 ensuring 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 its service with maximum efficiency and at the minimum cost which is compatible with the plan of operation herein described.

6.0104 Service Charges - Use of

The City Water and Sewer Department shall at all times be so operated and maintained, and 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 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. Charges may be set to produce surplus net revenues, over and above current principal, interest and reserve requirements, in amounts sufficient to provide reasonable allowances for depreciation 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 pay or contribute to the cost of any other City functions, subject to the limitations now or 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.

6.0105 Policy on Improvements - Extensions

It is hereby declared to be the policy of the City, 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 inches or sanitary sewer mains not exceeding eight inches in diameter are installed adjacent to residential properties, and where water mains not exceeding eight inches or sewer mains not exceeding ten 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 and such estimated cost shall be assessed against the properties abutting on such main and in the manner above provided.
3. Twenty percent (20%) 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 percent (20%) of the cost thereof, as determined by the governing body, 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 or 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 omissions 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.

6.0106 Utility Fund - Separate Accounts

All moneys received by the City in respect of the services, facilities, products and by-products furnished and made available by the City Water and Sewer Department, except collections of special assessments and taxes appropriated to improvement district funds and moneys borrowed for capital improvements, and all money, receipt and returns received from any investments of such earnings, shall be paid into the treasure 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 this fund, all receipts and disbursements of money on account of or in connection with the utility shall be entered and reflected; but the 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 September 11, 1972 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 equal to the sum of the principal and interest payments due within each next succeeding twelve-month period upon all revenue bonds of the City heretofore or hereafter issued and made payable from said accounts. After this 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 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 the 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 without preference or priority of one bond over any other. However, 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 Chapter 40-22 of the North Dakota Century Code. 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 revenues in favor improvement warrants for the payment of which such pledges have been made shall be subordinate only to the lien and charge on said net 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. 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 an 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 pre-payable 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 therefore 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.

7. Additional Accounts. The City also reserves the right to create additional accounts within the 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 Section 7.0107 hereof. 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.

6.0107 Provisions for Financing Capital Improvements

In borrowing money for capital improvements, 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. The portion of 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 7.0106 (3) hereof, received during the then next preceding fiscal year, shall have been in an aggregate amount at least equal to 125% 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 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 125% of the net revenues actually received during such year.
3. Refunding revenue bonds may be issued for the purpose of prepaying and refunding bonds payable from the Revenue Bond Account when and as they become pre-payable 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 which have matured and for the payment of which the moneys 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 therefore.

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.
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 the requirements of the several accounts of the Water and Sewer Utility Fund as stated in Section 7.0106 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.

6.0108 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 competitions 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 7.0106 hereof, and will revise such schedules in such manner 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 show 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 7.0106 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. The City will furnish a certified transcript therefrom of any information which any such bond or warrant holder may request, upon payment of a reasonable fee therefore.

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 percent (20%) 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. The City will also cause all persons handling funds of the utility to be bonded in suitable amounts for the protection of the City and the holders of obligations of the utility, and the expense of all such insurance and bonds shall be accounted for as an operating cost of the utility. 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 by the ordinances and resolutions of the City in force on the date upon which any such obligations are issued. 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 a part of the City's contract with the holders of such obligations; provided that nothing herein shall be deemed to preclude the City from modifying the policies set forth in Section 7.0105 hereof with reference to any improvements constructed and financed after the effective date of such modification.
10. The holders of twenty percent (20%) 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, on behalf of the holders of all outstanding obligations of the same issue, any suit or proceeding at law or in equity for the protection 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 such obligations are then in default as to principal and interest. Each and all of the rights and remedies provided by Sections 40-35-15 and 40-35-19 of the North Dakota Century Code are hereby acknowledged to be available to the holders of such obligations.

ARTICLE 2 - WATER SERVICE

6.0201 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 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. All structures must be connected to the City waterworks system.

6.0202 Superintendent of City Water and Sewer Department

A water and sewer utility superintendent shall be appointed by the governing board. If the superintendent is a part-time employee and is also a City employee in some other capacity, only those services respecting the utility shall be an operating charge of the system. It shall be the duty of the superintendent to exercise control and management of the operation of the utility system. The superintendent 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 utility system. All such employees shall be subject to the orders and directions of the superintendent, and the superintendent shall be responsible for their acts. The superintendent shall have power and authority to purchase such materials, supplies and repairs for the water-sewer system, with the approval of the governing board of the City, as shall be reasonably necessary for the operation of such system. The superintendent 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. The superintendent shall at all times be subject to the supervision and direction of the governing board and shall perform such other duties and have such other powers and authority as are hereinafter provided.

6.0203 Reports

The water and sewer utility superintendent shall make monthly reports to the governing body concerning the operation of the department.

6.0204 Application for Water Service and Service Connection Charge

Any party desiring water and sewer service from said utility for premises not heretofore connected with the system, and not subject to the provisions of Section 6.0205, shall apply for a connection on a form provided by the City. 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, the nature of sewage to be discharged, 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 a connection charge, as determined by the City Fee Schedule for a residential building, commercial building or multiple dwelling.

6.0205 Water Service - To Property Not Previously Assessed

No permit shall be issued for the making of any connection between any water or sewer line on 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 lines, unless and until such person shall have paid or made a written statement with the City to pay in monthly installments within a maximum of two years an amount of money as may be therefore determined by the governing body. The amount of the payment shall be based on the area served and benefit resulting to the property involved. Within 30 days of the 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 money 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.

6.0206 Subsequent Connection to Premises

Any party, other than the original applicant, desiring service for premises where a connection has been made pursuant to Sections 6.0204 and 6.0205 shall make written application therefore as in cases described in Section 6.0204, and if the connection charge for such premises has not been fully paid at such time, the applicant shall pay or agree to pay the remainder thereof in like manner and time as described in Sections 6.0204 and 6.0205.

6.0207 Separate Connections for each Premise - Exception

Unless special permission is granted by the water and sewer utility superintendent, each premise shall have a separate and distinct water service connection and sewer service connection, and where permission is granted for branch service systems, each unit on the branch shall pay the fees as set in Section 6.0222.

6.0208 Service Outside City Limits - Prohibited - Exception

No application for water and/or sewer service outside the city limits of the City shall be approved and no person outside the corporate limits of the City shall hook up to or make connection with the city water and/or sewer system whether the same now is outside or inside the incorporated limits of the City. Water service outside the corporate limits of the City may be permitted pursuant to contractual agreement of the governing body arising in limited and extraordinary circumstances but shall be permitted only upon a resolution unanimously adopted by the governing body. (Source: North Dakota Century Code sections 40-33-13 and 40-33-14)

6.0209 Service in Unplatted Areas

No application for water and/or sewer service shall be approved and no person shall hook up to or make connection with the City water and sewer system unless the area to be served by said water and/or sewer connection has been duly platted and the plat approved by the governing body and recorded in the office of the County Recorder.

6.0210 Water Service - Construction of - Maintenance of by Owner

The cost of original installation of all plumbing between the main 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 City. Any repairs found to be necessary by such representatives shall be made promptly, or the City 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. Services means the service line running from the point of connection with the City main to the owner's premises.

6.0211 Water Meters - Checked

Every consumer of water shall provide a suitable place where a water meter can be installed and checked, and each consumer shall supply, maintain and change the water meter when necessary.

6.0212 Unlawful to Use Water Not Metered - Unlawful to Tamper with Curb Cock

It shall be unlawful for any person to use water from any premises without the consent of the owner or to use water from the City water system except when drawn through a meter installed by the City. No person except an authorized representative of the City shall turn on or off or tamper with any curb cock.

6.0213 Defective Service - Consumers Duty to Report

All claims for defective service shall be made in writing and filed with the utility superintendent on or before the fifteenth day of the month next succeeding such defective service, or be deemed waived by the claimant. It shall be the duty of the utility superintendent to investigate the facts alleged in each claim and determine the amount, if any, which should be refunded to a claimant by reason of defective service and

report such determination to the governing body. If a claim is approved by that body, such amount shall be allowed as credit on the following bill or paid as other claims, but no claim shall be made against the City for any fire or any injuries to the person or property of any consumer of water or sewer service under the provisions hereof.

6.0214 Users Consent to Regulations

Every person applying for water and sewer service from the municipal system, and every owner of property for which such application is made, shall be deemed by such application to consent to all the rules, regulations and rates contained in the resolution or ordinances of the City and to any modification thereof and to all new rules, regulations or rates duly adopted.

6.0215 Regulations Governing Service

The following rules and regulations shall be considered a part of the contract with every person who takes water and/or sewer service supplied by the City through the city waterworks system and every such person who takes such service shall be considered to be bound thereby.

1. Shutting Off Water - Who Authorized. No person except an authorized employee of the water department shall shut off or turn off 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. Service may also be discontinued for nonpayment of bills or for disregard of rules and regulations affecting the service.
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 Turning On Water - Charge for. Except for shutoffs necessary for repair work, in every case where water has been disconnected or shut off, it shall not be turned on again until a fee in the amount established by resolution and all sums, if any, are due to the city on account of said premises is paid.
5. Entrance and Access to Premises by Waterworks Employees. Authorized employees of the water and sewer 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.

6.0216 Connection to be Supervised by City Employees

In installing water and sewer service, all taps shall be driven, street excavations made, corporation cocks inserted, pipes installed from the main and the curb cock installed in an iron case to which the service is to be connected by the individual, his agent or employee under the supervision, direction and control of the water and sewer department. Ten feet spacing shall be allowed between all water and sewer lines in new

connections to service. Failure to comply with this section shall be considered a disregard of the rules of the department and service to the affected property can be withheld or discontinued as the case may be.

6.0217 Service Pipes Specifications

All service pipes connected with the water and sewer utility shall be laid five feet and six inches below the established grades or as low as the street mains. All water and sewer pipes shall be of a material approved by the utility superintendent.

6.0218 Curb Cock Specifications

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 on a street, or within one 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 house plumbing entirely drained. There shall be another such stop and waste cock in the pipe on the house side of the meter.

6.0219 Check Valves Required When Necessary

Check valves are hereby required on all water connections to steam boilers or any other connection deemed by the utility superintendent to require one. Safety and release valves shall be placed on all boilers or other steam apparatus connection with the water system where the steam pressure may be raised in excess of fifty pounds per square inch.

6.0220 Use of Water During Fire - Unlawful

It is hereby declared to be unlawful for any person in this City or any person owning or occupying premises connected to the utility to use or allow to be used during a fire any water from said utility except for the purpose of extinguishing said fire; and upon the sounding of a fire alarm, it shall be the duty of every such person to see that all water services are tightly closed and that no water is used, except for necessary household purposes during said fire.

6.0221 Waterworks Customers May Lay Larger Pipes with Hydrants - When

Whenever proprietors of lumber yards, manufactories, halls, stores, hotels, public buildings or regular customers from the water works wish to lay larger pipes with hydrants and hose couplings, to be used only in case of fire, they will be permitted to connect with the street main at their own expense, upon application to the city auditor and approval by the City governing body.

6.0222 Rates and Charges

Water and sewer rates shall be fixed from time to time by resolution of the governing body and the City reserves the right to change the rates from time to time as it deems best. The resolution fixing water and sewer rates and charges shall be kept on file in the office of the city auditor and shall be open for public inspection.

6.0223 Rates and Charges - Liability for

The owner or owners of all real property in the City furnished water or sewer 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. Owners of premises where water or sewer service is supplied shall notify the water or sewer department or the city auditor in case any tenant moves from said premises, prior to such moving. On request of the owner or owners, the city auditor will bill or cause to be billed 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.

6.0224 Duty to Report to Auditor

Every owner or operator of a multiple dwelling unit shall file with the city auditor a report indicating the total number of units under his control. Every owner or operator of a mobile home park shall file with the city auditor a report indicating the total number of units in the park and shall further notify the city auditor of any changes in the number of units in the park if the number increases or decreases.

6.0225 Excavators

No person, firm or corporation shall excavate in or on any street, alley or other public place for the purpose of installing any water and/or sewer connection until they have complied with the provisions of Sections 3.0218 through 3.0226 of these ordinances.

6.0226 Restriction of Use of Water

The City governing body may from time to time declare that water may not be used for specific purposes or may only be used in certain parts of the City on certain days for certain purposes. The City shall have the right to prohibit the watering of lawns and gardens, the washing of cars or such other uses of the water as may be necessary to preserve an adequate supply of water for consumption and use by the general public.

ARTICLE 3 - REGULATION OF SEWER USE

6.0301 Purpose

It is the purpose of this article to provide ordinances regulating the use of public and private sewers and drains, private sewage disposal, the installation and connection of building sewers and the discharge of waters and wastes into the public sewer system and to provide penalties for violations thereof.

6.0302 Definitions

Unless the context specifically indicates otherwise, the meaning of the terms used in the article are as follows:

1. "BOD" (denoting Biochemical Oxygen Demand) means 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" means 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" means the extension from the building drain to the public sewer or other place of disposal, also called house connection.
4. "Combined Sewer" means a sewer intended to receive both wastewater and storm or surface water.
5. "Easement" means 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.
7. "Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
8. "Industrial Wastes" means the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.
9. "Natural Outlet" means 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," Sec. 18).
11. "Person" means any individual, firm, company, association, society, corporation or group.
12. "pH" means 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" means 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" means a common sewer controlled by a governmental agency or public utility.
15. "Sanitary Sewer" means 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," Sec. 24.
17. "Sewer" means a pipe or conduit that carries wastewater or drainage water.
18. "Shall" is mandatory (see "may," Sec. 10).
19. "Slug" means any discharge of water or wastewater which in concentration of any given constituent or in quantity of 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") means a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.
21. "Superintendent" means the superintendent of wastewater facilities, and/or of wastewater treatment works, and/or of water pollution control of the City or an authorized deputy, agent or representative.
22. "Suspended Solids" means 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 or 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" means 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 storm water that may be present.
25. "Wastewater Facilities" means 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" means an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. It is sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."
27. "Watercourse" means a natural or artificial channel for the passage of water either continuously or intermittently.
28. "Hearing Board" means that board appointed according to the provisions of Section 7.0209.

6.0303 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 or in any area under the jurisdiction of the 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 or in any area under the jurisdiction of the 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 sewage.
4. The owner 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 sewer, 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 thirty (30) days after date of official notice to do so, provided that said public sewer is within 200 feet (61 meters) of the property line according to the North Dakota plumbing code.

6.0304 When Private Sewage Disposal Permitted

1. Where a public sanitary or combined sewer is not available under the provisions of Section 6.0303 (4), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article as well as any state and local requirements..
2. Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the City Inspector or City Engineer. 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 as established by resolution shall be paid to the City at the time the application is filed.

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 72 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 and/or regulations of the North Dakota State Department of Health. No permit shall be issued for any private wastewater disposal system not meeting these conditions. No septic tank or cesspool shall be permitted to discharge to any natural outlet or to the ground surface.
5. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 6.0303 (4), a direct connection shall be made to the public sewer within thirty (30) 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 Section 23-19-01 of the North Dakota Century Code.
7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the local health officer.

6.0305 Building Sewers and Connections

1. No unauthorized person shall uncover, make any connection 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 service 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 in the judgment of the superintendent. A permit and inspection fee as established by resolution by the City for a residential or commercial building sewer permit and 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. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.

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. In the absence of suitable code provisions, specifications of the state building and plumbing codes 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 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.
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. 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.

6.0306 Use of Public Sewers

1. No person shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any building drain or sewer which in turn is connected directly or indirectly to the sanitary sewer unless such connection is approved by the superintendent and the North Dakota State Department of Health.
2. Storm water other than that exempted under Section 6.0306 (1) 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.
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 injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.

- c. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.
 - d. 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 waste shall be limited in discharges to city systems to concentrations or quantities which will not harm either the sewers, 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 consider 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, degree of treatability of the waste in the wastewater treatment plant and other pertinent factors. The limitations or restrictions on materials or characteristics of 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, non-biodegradable 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 Section 7.0302 (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 a 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.
5. If 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 Section 7.0306(4), 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 costs of handling and treating the wastes not covered by other sewer charges.

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 7.0306 (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 North Dakota 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 having of the collected materials not performed by owner personnel must be performed by currently licensed waste disposal firms.
7. Where pretreatment or flow-equalizing facilities are provided or required by 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 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 his expense and shall be maintained by the owner so as to be safe and accessible at all times.
9. The superintendent may require a use of sewer services to provide information needed to determine compliance with this ordinance. These requirements may include:
 - a. Wastewaters discharge peak rate and volume over a specified time period.
 - b. Chemical analyses of wastewaters.

- c. Information on raw materials, processes and products affecting wastewater volume and quality.
 - d. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
 - e. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
 - f. Details of wastewater pretreatment facilities.
 - g. Details of systems to prevent and control the losses of materials through spills to the City sewer.
10. All measurements, test 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 by the superintendent.
 11. No statement contained in this section 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.

6.0307 Damage to Sewer Works Prohibited

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.

6.0308 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 that 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 Section 7.0308 (1), 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 such as may be caused by negligence or failure of the company to maintain safe conditions as required in Section 7.0306 (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.

6.0309 Hearing Board

1. A hearing board, consisting of three (3) members, may be selected 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.
2. If a hearing board is used, one member of the board shall be selected to represent the City, one member shall be selected to represent the sewer user involved in the arbitration and the third member shall be acceptable to both parties and shall serve as the chairman in the arbitration.

6.0310 Penalties

1. Any person found to be violating any provision of this ordinance except Section 6.0307 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 continues any violation beyond the time limit provided for in Section 7.0310(1), upon conviction thereof, shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) for each violation. Each day in which any such violation continues 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.

6.0311 Validity

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.

ARTICLE 4 - SEWER SURCHARGE

6.0401 Purpose

1. The purpose of this article 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 wastewater 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.
2. The definitions set forth in Section 6.0302 of this chapter shall also apply to this article.

6.0402 Determining the Total Annual Cost of Operation and Maintenance

The City or 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 are 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.

6.0403 Determining Each User's Wastewater Contribution Percentage

The City or city engineer shall determine for each user's average daily volume of wastewater, which has been 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 such user's volume contribution percentage. The amount used as the total average daily volume of wastewater shall exclude infiltration and inflow. The City or the city engineer shall determine each user's average daily poundage of 5-day 20-degree Centigrade biochemical oxygen demand which has been discharged to the wastewater system which shall then be divided by the average daily poundage of all 5-day 20-degree Centigrade biochemical oxygen demand discharged to the wastewater system to determine each user's Biochemical oxygen demand contribution percentage.

The City or city engineer shall determine each user's average daily poundage of suspended solids that has been discharged to the wastewater system which shall then be divided by the average daily poundage of all suspended solids discharged to the wastewater system, to determine such user's suspended solids contribution percentage. Each user's volume contribution percentage, biochemical oxygen demand contribution percentage and suspended solids contribution percentage shall be multiplied by the annual operation and maintenance costs for the total volume, the total 5-day 20-degree Centigrade biochemical oxygen demand and the total suspended solids for the wastewater system, respectively.

6.0404 Determining a Surcharge System for Users with Above Normal Volume, BOD and TSS

The City or the city engineer shall determine the average total suspended solids (TSS) and biochemical oxygen demand (BOD) daily loadings for the average residential user and residential user class. The City will assess a surcharge rate for all non-residential users discharging wastes with volume, 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 users above-normal strength wastes and/or volume. Normal strength wastes are considered to be 200 mg/1 BOD and 250 mg/1TSS.

6.0405 Surcharge Rate Schedule for Above Normal Volume of Wastes

Residential users are considered to be one class of user and are hereby levied a flat fee per month as adopted by resolution of the City Council. Non-residential users with flows no greater than the average residential user's flow of 4,000 gallons per month and with BOD and TSS no greater than the average residential user's strength will be levied the same charge as the average residential user.

Non-residential users with volumes greater than the average residential user will pay an additional charge as determined by resolution of the City Council.

6.0406 Payment of the User's Wastewater Service Charge

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. Should any user fail to pay the user wastewater service charge within the time prescribed by the City Council of the due date, the City may stop the wastewater service to the property.

6.0407 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 on an annual basis 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. If a significant user, such as an industry, has 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 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.

6.0408 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 injure or interfere with any wastewater treatment process or to constitute a hazard in the receiving waters of the wastewater treatment plan is hereby prohibited.

ARTICLE 5 - ADOPTION OF STATE PLUMBING CODE

6.0501 Adoption

To promote and protect the public health there is hereby adopted the State Plumbing Code, which has been adopted by the State Plumbing Board and approved by the State Health 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 shall comply with said code.

6.0502 Plumbing Code - Enforcement of Provisions

All plumbing work 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 superintendent of the water and sewer department, whose duty it shall be to enforce all the provisions of this code relating thereto and from time to time to make such rules and regulations as may be appropriate for the execution of the same.

6.0503 Plumbing Code - Changes in Existing Installations

The superintendent of the water and sewer department 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 the superintendent's judgment is so installed or is in such condition as to be unsanitary, or to constitute a public nuisance or menace to health. In case of such repair, alteration or removal, if the plumbing code is not observed and connections not properly executed by the owner or owners thereof, in accordance with the superintendent's directions, the superintendent 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 the superintendent's direction.

6.0504 Plumbing Code - 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 under the direction of city employees.

ARTICLE 6 - General Penalty Provision

6.0601 Penalty for Violation of Chapter

Any person, firm, corporation or limited liability company violating any of these provisions of this Chapter and the same shall be proven by a preponderance of the evidence shall be fined One Hundred Dollars (\$100.00) for each and every day such violation of this Chapter shall continue. Each and every day shall constitute and be considered a separate offense.

CHAPTER SEVEN

BUSINESS REGULATIONS AND LICENSES

ARTICLE 1 - General Provisions

- 7.0101 Licenses
- 7.0102 Licenses - Application
- 7.0103 Licenses - Granting
- 7.0104 Licenses - Term
- 7.0105 Licenses - Not Transferable
- 7.0106 Licenses - Revocation
- 7.0107 Licenses - Posting of
- 7.0108 Licenses - Short Term
- 7.0109 Licenses - Enforcement

ARTICLE 2 - Transient Merchants

- 7.0201 Definitions
- 7.0202 License Required
- 7.0203 License Fee
- 7.0204 License - Application for
- 7.0205 Bond
- 7.0206 Service of Process
- 7.0207 Exhibiting License
- 7.0208 Transfer
- 7.0209 Enforcement by Police
- 7.0210 Revocation
- 7.0211 Expiration of License

ARTICLE 3 - Hawkers and Peddlers

- 7.0301 Definitions
- 7.0302 License Required

ARTICLE 4 - Runners, Solicitors and Canvassers

- 7.0401 Definitions
- 7.0402 License Required

ARTICLE 5 - Solicitations Without Invitation

- 7.0501 Solicitation Without Invitation Prohibited
- 7.0502 Enforcement

ARTICLE 6 - Alcoholic Beverages

- 7.0601 Definitions
- 7.0602 Exceptions
- 7.0603 License Required
- 7.0604 Licenses - Classes of - Fees
- 7.0605 Licenses - Term of
- 7.0606 License - Qualifications for
- 7.0607 Application for Liquor License
- 7.0608 License - Application Fitness
- 7.0609 License - Location of

- 7.0610 License - Granting
- 7.0611 License - Limit to One Location
- 7.0612 License - Posting of
- 7.0613 License - Transfer of
- 7.0614 License Fees - Disposition of
- 7.0615 Hours and Time of Sale - Penalty
- 7.0616 Licensee's Responsibility
- 7.0617 Gambling Prohibited - Exceptions
- 7.0618 Cashing Certain Checks Prohibited
- 7.0619 Sales Prohibited - Persons
- 7.0620 Minors in Licensed Premises
- 7.0621 Age Identification
- 7.0622 Street Sales Prohibited
- 7.0623 Premises, Equipment of
- 7.0624 Closed or Screened Areas
- 7.0625 Purchase from Licensed Wholesaler
- 7.0626 Toilets Required
- 7.0627 Deliveries - Off Licensed Premises
- 7.0628 Termination or Revocation of Licenses
- 7.0629 Penalties
- 7.0630 Event Permit

ARTICLE 7 - Shows, Carnivals and Circuses

- 7.0701 License Required
- 7.0702 Fees for

ARTICLE 8 - Validity

- 7.0801 Validity

ARTICLE 9 - Penalty

- 7.0901 Penalty

CHAPTER SEVEN

BUSINESS REGULATIONS AND LICENSES

ARTICLE 1 - GENERAL PROVISIONS

7.0101 Licenses

Unless otherwise specifically provided, licenses and permits required for the carrying on of a business or trade within the City shall be applied for, issued, terminated and revoked according to the provisions of this article.

7.0102 Licenses - Application

Any person desiring a license or permit under any ordinance of the City shall make a written application to the City therefore upon application blanks furnished by the city auditor and shall file the same with the city auditor. The application shall state the purpose for which the license or permit is desired, for what length of time, the place where the business is to be carried on and the proposed sureties on any required bonds.

7.0103 Licenses - Granting

The city auditor shall receive applications for licenses and permits and grant the same in all cases where expressly authorized upon the terms and conditions specified by ordinance. If the city auditor is not authorized to grant any particular application for license or permit, the city auditor shall report such application to the next meeting of the City governing board for their action thereon.

7.0104 Licenses - Term

1. No license or permit shall be granted for a longer period than one (1) year.
2. All yearly licenses or permits shall commence on the first day of January in each year and expire on the last day of December in each year. All semi-annual licenses or permits shall commence on the first day of January and expire on the last day of June or commence on the first day of July and expire on the last day of December.
3. No license or permit shall be valid until signed and sealed nor shall any person be deemed licensed until a license shall be duly issued to that person.
4. Each license shall be dated the day of issuance thereof; but if the applicant or applicants shall have been acting without a license, the license shall commence with the date business commenced. If the business calls for a yearly license, then a license shall commence on the first day of January in the year for which the license shall be issued.
5. The date of issuance of the license, together with the time of commencing and expiration shall be given in the license and the license record.

7.0105 Licenses - Not Transferable

No license or permit shall be assignable or transferable except by permission of the City governing body. No person other than the person to whom the license is granted shall be authorized to do business or act under such license or at any other than the place specified therein. The City may grant the continuance of the business licensed to any other portion of the City, such permission to be certified on the 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 therein 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 a license.

7.0106 Licenses - Revocation

All licenses granted shall be subject to ordinances in force at the time of issuing thereof or which may be subsequently passed by the City governing body. Any person who shall violate any provision of this article relating to his license may be proceeded against for any fine or penalty imposed thereby, and that person's license may be revoked or forfeited at the discretion of the City governing body or the court before which any action may be brought for the recovery of any fine or penalty.

Where not otherwise provided, any license may be revoked by the City governing body at any time for cause. "Cause" includes, but is not limited to, the following:

1. Violation of the laws of the State of North Dakota or any of the ordinances of the City dealing with or pertaining to the business or trade licensed.
2. The willful making of any false statement as to a material fact in the application for license.
3. Permitting any disorderly or immoral practices upon the premises where the licensee is licensed to carry on the business or trade.
4. The death of a licensee.
5. When the licensee ceases business at the location licensed.

When the license is terminated or revoked for cause, the licensee or those claiming under the licensee, shall not be entitled to any return of any portion of the license fee previously paid to the City.

7.0107 Licenses - Posting of

All licenses and permits issued by the City for the operation of any business establishment, trade or any part of the operation thereof, shall be posted in a conspicuous place in the main business establishment. Where badges representing permits or licenses are issued to be worn by an individual, such licensee shall wear such badge during the normal course of employment for which said badge was issued.

7.0108 Licenses - Short Term

No license, unless otherwise specified, shall be issued for a fractional part of the year, but shall relate back if taken out subsequent to the first day of January of each year.

7.0109 Licenses - Enforcement

All city officials having duties to perform with reference to licensed premises, including all police officers, shall have authority to enter the licensed premises with or without a search warrant to check for violations of ordinances or state laws by the licensee.

ARTICLE 2 - TRANSIENT MERCHANTS

7.0201 Definitions

For the purpose of this article:

1. "Transient merchant" includes any person, individual, co-partnership or corporation, either as principal or agent, who engages in, does or transacts any temporary or transient business in the City limits, either in one locality or in traveling from place to place selling goods, wares

and merchandise who does not intend to become and does not become a permanent merchant of the City and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, structure, lots, tract, railroad car or motor vehicles for the exhibition and sale of such goods, wares and merchandise. The person, individual, co-partnership or corporation so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of or in the name of any local dealer, trader, merchant or auctioneer.

2. "Merchandise" does not include any livestock or agricultural product. (Source: North Dakota Century Code section 51-04-01)

7.0202 License Required

It shall be unlawful to do business in the City as a transient merchant without having first secured a license therefore as is herein provided. For the purpose of this article, any merchant engaging or intending to engage in business as a merchant in the City for a period of time not exceeding 100 days shall be considered as a transient merchant.

7.0203 License Fee

The license fee to be required of all transient merchants for the transaction of such business within the City is hereby fixed at the sum of \$25.00 per day for each and every day during which any such transient merchants shall transact business in the City. (Source: North Dakota Century Code section 51-04-09)

7.0204 License - Application for

Applicants for license under this article, whether an individual, co-partnership or corporation, shall file with the city auditor a written sworn application signed by the applicant if an individual, by all partners if a partnership and by the president if a corporation, showing:

1. Applicant's name, present residence, present home address, present business address, present telephone number and if a corporation, under the laws of what state the same is incorporated;
2. The name, present residence, present home address, present business address, and present telephone number of the person or persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the City;
3. The residence, business address and type of business in which applicant has been engaged in the previous two (2) years;
4. The residence, business address and type of business in which the person having the management or supervision of applicant's business has been engaged in the previous two (2) years;
5. The place or places in the City, where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business shall be conducted;
6. The kind of business to be conducted;
7. The name and address of the auctioneer, if any, who will conduct the sale; and
8. A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by applicant in the City, the invoice value and quality of such goods, wares and merchandise, whether the same are proposed to be sold from stock in possession or by sample; at auction, by direct sale or by direct sale and by taking orders for future delivery;

where the goods or property proposed to be sold are manufactured or produced, and where such goods or products are located at the time the application is filed. (see North Dakota Century Code section 51-04-02)

7.0205 Bond

Before any license shall be issued to a transient merchant for engaging in business in this City, the applicant therefore shall file with the city auditor a bond running to the City in the sum of \$1,000 executed by the applicant, as principal, and a responsible surety upon which service of process may be made in the State of North Dakota; said bond not to be revocable nor to terminate prior to passage of two years time after the expiration of the license issued pursuant thereto nor until due notice that the terms of the bond are to be cancelled has been given to the city auditor. The bond is to be approved by the city attorney, conditioned that the applicant shall comply fully with all of the provisions of the ordinances of the City and the statutes of the State of North Dakota, regulating and concerning the sale of goods, wares and merchandise. The bond must be conditioned to pay all judgments rendered against the applicant for any violation of city ordinances or state statutes, together with all judgments and costs that may be recovered against the applicant by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting business with the applicant, whether misrepresentations or deceptions were made or practiced by the owners or by their servants, agents or employees, of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Action on the bond may be brought in the name of the City to the use of the aggrieved person.

7.0206 Service of Process

Before any license as herein provided shall be issued for engaging in business as a transient merchant, as herein defined, in this City, such applicant shall file with the city auditor an instrument nominating and appointing the city auditor as a true and lawful agent with full power and authority to acknowledge service or notice of process for and on behalf of the applicant in respect to any matters connected with or arising out of the business transacted under the license and the bond given as required by this article, or for the performance of the conditions of said bond or for any breach thereof. This instrument shall also contain recitals to the effect that the applicant for license consents and agrees that service of any notice or process may be made upon said agent, and when so made shall be taken and held to be as valid as if personally served upon the person or persons applying for the license under this article, according to the law of this state or any other state, and waiving all claim or right of error by reason of such acknowledgement of service or manner of service. Immediately upon service of process upon the city auditor, as herein provided, the city auditor shall send to the licensee by registered mail, at the licensee's last known address, a copy of said process.

7.0207 Exhibiting License

The license issued under this article shall be posted conspicuously in the place of business named therein. In the event that such person or persons applying for a license shall desire to do business in more than one place within the City, separate licenses may be issued for each place of business and shall be posted conspicuously in each place of business.

7.0208 Transfer

No license issued to a transient merchant in the City shall be transferred.

7.0209 Enforcement by Police

It shall be the duty of the police officers of the City to examine all places of business and persons in their respective territories subject to the provisions of this article, to determine if this article has been complied with and to enforce the provisions of this article. The city auditor shall deposit with the chief of police a record of each license number, together with the location within the City of the business licensed, to assist and promote such enforcement.

7.0210 Revocation

1. Any license issued pursuant to this article may be revoked by the City governing body after notice and hearing for any of the following causes:
 - a. Any fraud, misrepresentation or false statement contained in the application for license;
 - b. Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise;
 - c. Any violation of this article;
 - d. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude; or
 - e. Conducting the business licensed under this article in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
2. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for the hearing.

7.0211 Expiration of License

All licenses issued under the provisions of this article shall expire at the expiration of the period for which application has been made and prepaid, to be renewable by the city auditor upon application and payment therefore.

ARTICLE 3 - HAWKERS AND PEDDLERS

7.0301 Definitions

The word “person” as used herein includes the singular and the plural and means and includes any person, firm or corporation, association, club, co-partnership or society or any other organization. The words “hawker” and “peddler” as used herein include any person, whether a resident of the City or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares or merchandise, offering and exposing the same for sale, or making sales and delivering articles to purchasers. The words “hawker” and “peddler” also include any person who, without traveling from place to place, shall sell or offer the same for sale from an automotive vehicle, railroad car or other vehicle or conveyance. One who solicits as a part of a scheme or design to evade the provisions of this article is deemed a hawker or peddler subject to the provisions of this article.

7.0302 License Required

It shall be unlawful for any person to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a transient merchant license as provided for under Section 7.0202.

ARTICLE 4 - RUNNERS, SOLICITORS AND CANVASSERS

7.0401 Definitions

A “runner,” “canvasser” or “solicitor” is defined as any individual, whether resident of the City or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future. The definition shall include any person who, for himself, or for another person, firm or corporation hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

7.0402 License Required

It shall be unlawful for any person to engage in the business of runners, solicitors and canvassers of any merchandise, article or thing without having first secured a transient merchant license as provided for under Section 7.0202.

ARTICLE 5 - Alcoholic Beverages

7.0501 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 200 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.
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.
12. "Sparkling wine" means wine made effervescent with carbon dioxide.
13. "Wine" means the alcoholic beverage obtained by fermentation of agriculture products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four percent alcohol by volume

(Source: North Dakota Century Code section 5-01-01)

7.0502 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.

7.0503 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.

7.0504 Licenses - Classes of - Fees

The City shall by resolution adopt a fee schedule identifying the fees for the various licenses.

Source: North Dakota Century Code section 5-02-03

7.0505 Licenses - Terms of

1. All licenses issued hereunder shall be for a period of not more than one (1) year and shall expire on the 31st day of December in each year. Where a license is granted for a period less than one (1) year, any subsequent renewal thereof must be made for the full annual term.
2. If an application is made for license hereunder during the license year for the unexpired portion of such year, the fees for said license shall be proportional to represent the number of days which said license will be in effect.

7.0506 License - Qualifications for

No retail license shall be issued to any person unless the applicant shall file a sworn application, accompanied by the required fee, showing the following qualifications:

1. Applicant, if an individual, must be a legal resident of the United States, a resident of the State of North Dakota and a person of good moral character.
2. If applicant is a corporation or limited liability company, the manager of the licensed premises and the officers, directors, shareholder, or members must be legal residents of the United States and persons of good moral character. Corporate and limited liability applicants must first be properly registered with the North Dakota Secretary of State
3. If applicant is a partnership, the manager of the licensed premises and all of the members must be legal residents of the United States and of good moral character. Partnership applicant must first be properly registered with the North Dakota Secretary of State.
4. Applicant or manager must not have been convicted of an offense determined by the North Dakota Attorney General to have a direct bearing upon an applicant's or manager's ability to serve the public as an alcoholic beverage retailer.
5. Building in which business is to be conducted must meet local and state requirements regarding the sanitation and safety.
6. Taxes on property for which application for license is made must not be delinquent.
7. If applicant's business at the licensed location is to be conducted by a manager or agent, the manager or agent must possess the same qualifications required of the licensee. (Source: North Dakota Century Code section 5-02-02)

7.0507 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 City governing body, 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.
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.
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 governing body 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.

7.0508 License - Application Fitness

The chief of police or such other person or officer as may be designated by the governing body 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 governing body.

7.0509 License - Location of

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 City governing body. The application for approval shall be in writing and shall be filed with the City governing body. At the time of hearing, the City governing body 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.
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.

7.0510 License - Granting

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

7.0511 License - Limit to One Location

Each license shall be valid only for the specific premises licensed.

7.0512 License - Posting of

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

7.0513 License - Transfer of

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.

7.0514 License Fees - Disposition of

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

7.0515 Hours and Time of Sale - Penalty

Anyone who dispenses or permits 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 who dispenses or permits such consumption on Christmas Day, after six p.m. on Christmas Eve, or provides off sale service after two a.m. on Thanksgiving Day 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. (Source: North Dakota Century Code section 5-02-05)

7.0516 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.

7.0517 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 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 City governing body or license issued by the State of North Dakota.

7.0518 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.

7.0519 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.

7.0520 Minors in Licensed Premises

No licensee shall permit any person under twenty-one (21) years of age to remain on the licensed premises while alcoholic beverages are being sold or displayed thereon, except that a person under twenty-one (21) years of age may remain in a restaurant where alcoholic beverages are being sold if the restaurant is separate from the room in which alcoholic beverages are opened or mixed.

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

1. 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;
2. The individual is on the premises to consume a meal or in an emergency situation;
3. The premise serves at a tabletop, food that is prepared in a kitchen with at least an indoor grill;
4. The individual is not on the licensed premises after ten p.m.; and
5. The owner of the licensed premises receives permission of the city governing body for individuals to be on the premises as allowed under this section and the licensed premises is located in a city with a population of one thousand five hundred or fewer people. (Source: North Dakota Century Code section 5-02-06)

7.0521 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.

7.0522 Street Sales Prohibited

The sale or consumption of alcoholic beverages upon or across any street, alley or public way is prohibited unless approved by the City Council.

7.0523 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.

7.0524 Closed or Screened Areas

No premises licensed for on-sale of alcoholic beverages shall contain any side rooms, closed booths or other screened enclosures nor shall any screen, partition, curtain, blind or obstruction of any kind prevent a clear view at all times of all parts of the interior of the premises licensed. All booths located in such premises shall open directly into the main part of said premises and shall be accessible from the aisles therein.

7.0525 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.

7.0526 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.

7.0527 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.

7.0528 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 City governing body by personal representative of the decedent, the City governing body 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.
2. License issued pursuant to this ordinance may, in the discretion of the governing body, 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 the

municipal court of the City of 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 City governing body for any cause deemed by the City governing body 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.

7.0529 Penalties

Any 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 one thousand dollars (\$1,000.00). 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 8.0628.

7.0530 Event Permit

1. The governing body of the city may by special permit authorize a qualified alcoholic beverage licensee to engage in the sale of alcoholic beverages at special events designated by the permit. A "qualified alcoholic beverage licensee" shall mean a holder of a licenses pursuant to this article. The permit may not be valid for a period greater than fourteen consecutive days and may include Sundays. The permit may be issued for a location other than the primary place of business of the license holder.
2. An application for a special permit must be filed by a licensee in the office of the city license officer. The application shall contain the following:
 - a. The name of the licensee;
 - b. The type of event for which the permit is desired;
 - c. The dates and times for which the permit is desired;
 - d. Whether the permit is requested for the sale of all alcoholic beverages, beer, wine, sparkling wine or any combination thereof;
 - e. The specific location at which the event will take place, including a diagram of the area to be licensed and specifically identifying where persons under twenty-one years of age may be present.
3. Applications submitted pursuant to this section must be submitted at least thirty (30) days prior to the first day of the event; however, the city governing body may, at its discretion, waive the thirty (30) day requirement.
4. The permit may authorize persons under twenty-one years of age to remain in the areas of the event, or a portion thereof, where beer, wine, or sparkling wine may be sold pursuant to the permit. However, this authorization is subject to the following conditions:

- a. The area where persons under 21 years of age may remain must be specifically set forth in the permit.
 - b. Only employees of the qualified alcoholic beverage licensee who are at least twenty-one years of age may deliver and sell the beer, wine, or sparkling wine.
 - c. No person under twenty-one years of age within the area described in the permit may consume, possess or receive alcoholic beverages.
5. The fee for an event permit shall be established, and may be revised, by resolution enacted by the city governing body [Fee cannot exceed \$25]. (Source: North Dakota Century Code section 5-02-01.1)

ARTICLE 6 - Shows, Carnivals and Circuses

7.0601 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, tent show, carnival or carnival show, continuous theatrical performance, or other like exhibition without first obtaining a license from the City.

7.0602 Fees for

The fees to secure license to conduct the exhibitions under Section 7.0701 shall be set forth in a resolution adopted by the City Council.

ARTICLE 7 - VALIDITY

7.0701 Validity

If any section, part, article or provision of this chapter or the application thereof to any person, firm, corporation or association or to any circumstances shall be held to be invalid for any cause whatsoever, the remainder of this ordinance or the application to persons, firms, corporations or circumstances shall not be affected thereby, and shall remain in full force and effect as though no part thereof had been declared to be invalid.

ARTICLE 8 - PENALTY

7.0801 Penalty

Any person, firm, corporation or limited liability company violating any of these provisions of this Chapter and the same shall be proven by a preponderance of the evidence shall be fined One Hundred Dollars (\$100.00) for each and every day such violation of this Chapter shall continue. Each and every day shall constitute and be considered a separate offense.

CHAPTER EIGHT

HEALTH

ARTICLE 1 - Garbage, Refuse, Rubbish

- 8.0101 Definitions
- 8.0102 Accumulation of Refuse Prohibited
- 8.0103 Containers
- 8.0104 Burning
- 8.0105 Nuisance
- 8.0106 City Collection
- 8.0107 Fees
- 8.0108 Fees - Payment - Collection
- 8.0109 Fees - Payment - Collection by Franchised Contractor
- 8.0110 Disposal of Refuse not Collected by the City
- 8.0111 Supervision
- 8.0112 Rules and Regulations

ARTICLE 2 - Dangerous Buildings

- 8.0201 Dangerous Buildings Defined
- 8.0202 Standards for Repair, Vacation or Demolition
- 8.0203 Dangerous Buildings - Nuisances
- 8.0204 Duties of Building Inspector
- 8.0205 Duties of City Governing Body
- 8.0206 Failure to Comply with Decision of the City Governing Body
- 8.0207 Violations - Penalty for Disregarding Notices or Orders
- 8.0208 Duties of the City Attorney
- 8.0209 Where Owner Absent from the City
- 8.0210 Duties of Fire, Police and Health Departments
- 8.0211 Appeal

APPENDIX 8-1: Warning

APPENDIX 8-2: In the Matter of "Dangerous Buildings" / Notice and Order

APPENDIX 8-3: In the Matter of "Dangerous Buildings" / Notice of Hearing

CHAPTER EIGHT

HEALTH

ARTICLE 1 – GARBAGE, REFUSE, RUBBISH

8.0101 Definitions

For the purpose of this article the following words shall have the meanings given herein:

1. “Ashes” is the residue from burning wood, coal, coke or other combustible materials.
2. “Garbage” is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
3. “Refuse” is all putrescible and non-putrescible solid wastes (except body wastes) including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.
4. “Rubbish” is non-putrescible solid wastes (excluding ashes) consisting of both combustible and non-combustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials.

8.0102 Accumulation of Refuse Prohibited

No person shall permit or allow to accumulate in or about any yard, lot, place or premises; or upon any street or sidewalk, adjacent to or abutting upon any lot, block or place, or premises owned and occupied by that person, any and all refuse, nor allow such yard, lot, place or premises to be or remain in such condition.

8.0103 Containers

All garbage and rubbish shall be placed by the person upon whose premises the same shall have been produced or accumulated, in watertight containers, which shall be protected against the access of flies and rodents.

Containers shall be placed in the alley of those lots having access to any alley and along the curb if no alley is accessible. The City may specify where containers shall be placed along the alley or street the convenience of collection.

8.0104 Burning

No garbage, refuse or rubbish shall be burned within the City or in disposal grounds maintained by the City.

8.0105 Nuisance

Failure to comply with the provisions of Sections 8.0302, 8.0303 and 8.03004, shall constitute a public nuisance and be punishable as such under the terms of Chapter 12 of these ordinances.

8.0106 City Collection

All garbage and rubbish as defined herein shall be collected by the city or franchised contractor as frequently as is necessary to maintain and preserve community cleanliness and sanitation, except that this section shall not require the collection of garbage and rubbish where streets and alleys are in a temporary condition which makes it impossible to do so and in case of the failure to collect such garbage and rubbish,

such failure shall not relieve the occupant of the premises from the payment of the garbage and rubbish collection fees hereinafter provided for.

8.0107 Fees

Fees for the collection of garbage rubbish by the City or franchised contractor and the disposal thereof may be set by resolution of the City governing body.

8.0108 Fees – Payment – Collection

In all places where water service is provided, fees for garbage and rubbish collection shall be added to and collected as a part of the water bill and collected by the water department, but shall be separately stated on the bill. Garbage and rubbish collection bills shall be due and payable at the same time as the water bill, either monthly or quarterly as the case may be. If such charge is not paid when due the water service to such premises shall be shut off by the water department in the same manner as is now provided for in the case of delinquency in payment of water bills and such service shall not be restored without the payment of the penalties now provided for.

In all places where water service is not provided, the fees for garbage and rubbish collection shall be paid to the Water Department of the City upon monthly or quarterly bills from the Water Department. If the garbage and rubbish charge so established is not paid when due, the amount thereof may be assessed against the premises to which the service is rendered. This amount may be collected and returned in the same manner as other municipal taxes are assessed, certified, collected and returned. (Source: North Dakota Century Code section 40-05-01.1)

The proceeds from the collection of the fees and charges shall be placed in the solid waste management fund, and all of the expense of the City, in the purchase and maintenance of equipment and in the collection and disposal of garbage and rubbish, shall be paid out of the solid waste management fund.

8.0109 Fees – Payment – Collection by Franchised Contractor

In the event the City elects to franchise a contractor to perform the collection services contemplated by this Article, collection of fees, limited as set out in this section, are to be made by the contractor. Failure to pay fees billed by the contractor within thirty (30) days of billing and reporting of the failure to pay to the City shall release the contractor from collection responsibility regarding the delinquent premises. On being notified of delinquencies the City may avail itself of any or all of the collection provisions of Section 10.0308.

8.0110 Disposal of Refuse not Collected by the City

All other wastes as defined, and not included under garbage, rubbish and ashes, may be disposed of by the person creating such waste, by hauling such waste for disposal to such points as are designated or approved by the City health officer.

8.0111 Supervision

The collection, removal and disposal of garbage and rubbish under the provisions of this Article shall be under the supervision, direction and control of the City. The City shall, unless there is a franchised contractor, appoint such employees as shall be necessary to carry out the purposes of this article, which appointments shall be subject to the approval of the City governing body.

8.0112 Rules and Regulations

The health officer of the City shall prescribe such reasonable rules and regulations in connection with preparation, handling and disposition of garbage and rubbish as may be necessary to regulate, enforce and carry out the provisions of this chapter. The health officer may direct that the City garbage and rubbish collection crews shall not collect garbage and rubbish from any premises where such rules and regulations

are not complied with and the failure to collect the same shall not relieve the owner or occupant of the premises from the payment of fees nor from the enforcement of the penalties of this code. In the absence of City collection crews the health officer may give instructions to a franchised contractor.

ARTICLE 4 – DANGEROUS BUILDINGS

8.0201 Dangerous Buildings Defined

For the purpose of this chapter, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered.

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, are more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.
4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.
5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
6. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.
7. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
8. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

11. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.
14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any non-supporting part, member or portion less than 66 percent of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
15. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or is such a condition that is likely to cause sickness or disease.
16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.
17. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
18. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

8.0202 Standards for Repair, Vacation or Demolition

The following standards shall be followed in substance by the building inspector and the City governing body in ordering repair, vacation or demolition:

1. If the “dangerous building” can be reasonably repaired so that it will no longer exist in violation of the terms of this article it shall be ordered repaired.
2. If the “dangerous building” is in such condition as to make it dangerous to the health, safety or general welfare of its occupant it shall be ordered to be vacated.
3. In any case where a “dangerous building” is 50 percent damaged or decayed or deteriorated from its original value or structure, of where the cost of reconstruction or restoration shall be in excess of 50 percent of the value of the building, 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 city ordinance or state statute, it shall be demolished.

8.0203 Dangerous Buildings – Nuisances

All “dangerous buildings” within the terms of Section 8.0401 of this article are hereby declared to be public nuisances and shall be repaired, vacated or demolished as provided in this ordinance or under state law.

8.0204 Duties of Building Inspector

The building inspector, as designated by the City governing body, shall:

1. Inspect or cause to be inspected periodically, 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 8.0401 of this Article.
2. Inspect any building, wall or structure about which any person to the effect files complaints that a building, wall, or structure is or may be existing in violation of this Article.
3. Inspect any building, wall or structure reported by the fire or police departments of this City as probably existing in violation of the terms of this Article.
4. Notify in writing the owner, occupant, lessee, mortgagee and all other persons having an interest in said building, as shown by the records in the office of the County Recorder, of any building found by the building inspector to be a “dangerous building” within the standards set forth in Section 8.0401 of this Article that: (a) the owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this article; (b) the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession. Provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding thirty (30) days as may be necessary to do, or have done, the work or act required by the notice provided for herein. (see Appendix 10-2)
5. Set forth in the notice provided for in subsection 4 hereof a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a “dangerous building”, and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding thirty (30) days, as is reasonable.
6. Report to the City governing body any noncompliance with the “notice” provided for in subsection 4 and 5 hereof.
7. Appear at all hearings conducted by the City governing body and testify as to the conditions of “dangerous buildings”.
8. Place a notice on all “dangerous buildings” reading as follows: “This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee or mortgagee of this building and all other persons having an interest in said building as shown by the records of the County Recorder. It is unlawful to remove this notice until such notice is complied with.” (See Appendix 10-1)

8.0205 Duties of the City Governing Body

The City governing body shall:

1. Upon receipt of a report of the building inspector as provided for in Section 8.0404, subsection 6 hereof, give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the County Recorder, to appear before it on the date specified in the notice to show cause why the building or structure reported to be a “dangerous building” should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the building inspector’s notice provided for herein in Section 8.0404, subsection 5. (see Appendix 10-3)
2. Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the County Recorder shall offer relative to the “dangerous building”.
3. Make written findings of fact from the testimony offered pursuant to subsection 2 as to whether or not the building in question is a “dangerous building” within the terms of section 8.0401 hereof.
4. Issue an order based upon findings of fact made pursuant to subsection 3 commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the County Recorder to repair, vacate or demolish any building found to be a “dangerous building” within the terms of this article and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said “dangerous building”.

8.0206 Failure to Comply with Decision of the City Governing Body

If the owner, occupant, mortgagee or lessee fails to comply with the order of the City governing body or fails to appeal to the District Court within thirty (30) days as provided herein, the City through its officers and employees shall cause such building or structure to be repaired, vacated or demolished as ordered by the City governing body and shall cause the costs of such repair, vacation or demolition to be charged against the land on which said building existed by special assessment, or as a municipal lien, or shall cause said cost of removal to be levied as a special tax against the land upon which said building stands or did stand or to be recovered in a suit at law against the owner.

8.0207 Violations – Penalty for Disregarding Notices or Orders

The owner of any “dangerous building” who shall fail to comply with any notice or order to repair, vacate or demolish said building given by any person authorized by this Article to give such notice or order shall be fined, upon a finding by a preponderance of the evidence, One Hundred Dollars (\$100.00) for each and every day such violation of this Chapter shall continue. Each and every day shall constitute and be considered a separate offense.

The occupant or lessee in possession who fails to comply with any notice to vacate or who fails to repair said building in accordance with any notice given as provided for in this Article shall be fined, upon a finding by a preponderance of the evidence, One Hundred Dollars (\$100.00) for each and every day such violation of this Chapter shall continue. Each and every day shall constitute and be considered a separate offense.

Any person removing the notice provided for in Subsection 8 of Section 10.0404 shall be fined, upon a finding by a preponderance of evidence, One Hundred Dollars (\$100.00) for each and every day such violation of this Chapter shall continue. Each and every day shall constitute and be considered a separate offense.

8.0208 Duties of the City Attorney

The city attorney shall:

1. Prosecute all persons failing to comply with the terms of the notices provided for in Section 8.0404, subsections 4 and 5 and the order provided for in Section 8.0405, subsection 4.
2. Appear at all hearings before the City governing body in regard to “dangerous buildings”.
3. Take such other legal action as is necessary to carry out the terms and provisions of this article.

8.0409 Where Owner Absent from the City

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the City, all notice or orders provided for 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 County Recorder 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.

8.0210 Duties of Fire, Police and Health Departments

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

8.0211 Appeal

The City governing body shall serve upon the owner, occupant, mortgagee, lessee and all other persons having an interest in any building ordered to be repaired, vacated or demolished, a copy of its order. The owner, occupant, mortgagee or lessee shall thereafter have thirty (30) days from the date of the service of such order in which to appeal from such order to the District Court or to take such other legal steps to enjoin the enforcement of such order.

CHAPTER NINE

ANIMALS AND FOWL

ARTICLE 1 - General Regulations

- 9.0101 Cruelty - Penalty
- 9.0102 Dangerous Animals
- 9.0103 Permit - When Issued
- 9.0104 Killing Dangerous Animals
- 9.0105 Diseased Animals
- 9.0106 Housing
- 9.0107 Keeping of Certain Animals Prohibited
- 9.0108 Strays
- 9.0109 Noises
- 9.0110 Penalty

ARTICLE 2 - Dogs and Cats

- 9.0201 License Required
- 9.0202 Licensing Procedure and Terms
- 9.0203 License Fee
- 9.0204 License: When Due and Payable
- 9.0205 Dog or Cat Running at Large Prohibited
- 9.0206 Disposition of Unlawful Dogs or Cats
- 9.0207 Disposition of Unclaimed Dogs or Cats
- 9.0208 Return to Owner if Known
- 9.0209 Noisy Dog or Cat Prohibited
- 9.0210 Nuisance - When
- 9.0211 Penalty

CHAPTER NINE

ANIMALS AND FOWL

ARTICLE 1 – GENERAL REGULATIONS

9.010 Definitions

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

Animal. Every living animal except humans.

At Large. An animal off the premises of the owner, and not under the control of the owner or a member of his immediate family by reasonable length leash, cord or chain.

Dangerous Animal. An animal which because of its poisonous bite or sting, size or propensity to viciousness or aggressiveness would constitute a hazard or threat to the safety of other animals or humans.

Dangerous or Vicious Dog or Cat. Any dog or cat that (a) inflicts severe injury on a human being without provocation on public or private property, (b) kills or severely injures a dog or cat without provocation while the dog is off the owner's property, or (c) has been previously found to be potentially dangerous because of injury inflicted on a human, the owner having received notice of such and the dog or cat aggressively bites, attacks, or endangers the safety of dogs, cats, or humans.

Dog. An animal which is a domesticated canid, *Canis familiaris*, bred in many varieties. Does not include hybrids which include *Canis lupus* (wolf) and other wild canids.

Domestic Fowl. Means poultry which are valued for their meats and eggs including chickens, turkeys, ducks, geese, and guinea fowl. Also includes pigeons.

Cat. An animal which is a small domesticated carnivore, *Felis catus*, bred in a number of varieties.

Exotic Pet. An animal that is not a dog, cat, or fish and is non-indigenous to North Dakota.

Farm Animals/Livestock. Animals generally bred, raised, and housed on farms and in rural places for production of food, or for work purposes, such as horses.

Fish. Animals of various cold-blooded, aquatic vertebras, having gills, commonly fins, and typically an elongated body covered with scales.

Kennel. A facility permitted through either zoning or a special use permit to breed, raise, and house dogs and/or cats.

Owner. Ant person owning, keeping or harboring an animal.

Severe Injury. Means any physical injury to a human being or animal that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.

Wild Animals. An animal that may be native to North Dakota, but is not considered domestic and may be listed as a huntable animal or protected by the state or federal government.

9.020 Cruelty – Penalty

No person shall cruelly treat any animal in the City in any way. Any person who inhumanly beats, underfeeds, overloads or abandons any animal shall be deemed guilty of an offense for which the maximum

penalty shall be a fine of five hundred dollars (\$500.00), thirty (30) day imprisonment, or both such fine and imprisonment. (Source: North Dakota Century Code Section 36-21.1-02)

9.030 Dangerous Animals

It shall be unlawful to permit any dangerous animal or vicious animal of any kind to run at large within the City. Exhibitions or parades of wild animals may be conducted only upon securing a permit from the city council. It shall also be unlawful to keep or harbor within the City any dangerous animal without first having obtained a permit to keep or harbor such animal from the city council.

9.040 Permit – When Issued

The city council shall have discretion as to whether or not to issue a permit pursuant to Section 15.0103. No permit shall be issued without first obtaining a description of the animal, the name of the owner or person in charge, the purpose for which the animal is kept, and such other pertinent information as the city council shall determine. Any dangerous animal kept or allowed to run at large without the owner or keeper having first obtained a permit in compliance with this section is hereby declared a nuisance and the owner or keeper shall be guilty of a violation of this article.

9.050 Killing Dangerous Animals

Any police officer or any other person in the City are authorized to kill any dangerous animals of any kind when it is necessary for the protection of any person or property.

9.060 Diseased Animals

No domestic animal afflicted with a contagious or infectious disease shall be allowed to run at large, or to be exposed in any public place whereby the health of man or beast may be affected; nor shall such diseased animal be shipped or removed from the premises of the owner thereof, except under the supervision of a police officer or the health officer.

It is hereby make the duty of the health officer to secure such disposition of an diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagion or infection, except in cases where the state department of health is empowered to act.

9.070 Housing

No person shall cause or allow any stable or place where any animal is or may be kept to be unclean, or unwholesome.

9.080 Keeping of Certain Animals Prohibited

It shall be unlawful to keep any live sheep, swine or pigs, cattle, chickens or other poultry, and goats in the City. This section shall not apply to any person, partnership or corporation keeping or handling such animals under consignment in the course of regular business or to a licensed livestock auction market.

9.090 Strays

It shall be unlawful to permit any cattle, horses, sheep, swine, goats or poultry to run at large in the City; and any such animal running at large in any public place in the City shall be impounded. It shall further be unlawful to picket or tie any such animal in any of the streets of the City for the purpose of grazing or feeding.

9.010 Noises

It shall be unlawful to harbor or keep any animals, which habitually disturbs the peace by loud noises at any time of the day or night.

9.011 What Constitutes Nuisance; Nuisances Prohibited

The keeping of any animal described in this article which causes annoyance, disturbance or offense to persons residing in or passing through the neighborhood, either by reason of:

- a. Barking, howling, braying, crowing or other sounds common to its species;
- b. Biting, threatening, chasing or molesting persons upon the public sidewalk or streets, or the property of persons other than the owner;
- c. The failure of any person responsible for any animal to maintain all structures, pens, coops or yards wherein any animal is kept in a clean and sanitary condition devoid of rodents and vermin, and free from all objectionable odors; or
- d. Keeping any animal in violation of any provisions of this article, is hereby declared to be a nuisance and the keeping or maintaining of any such nuisance is hereby prohibited. Each day's continuance of such nuisance shall be a separate offense.
- e. Allowing solid waste of an animal to accumulate.

9.012 Penalty

Any person, firm, corporation or limited liability company violating any of these provisions of this Chapter and the same shall be proven by a preponderance of the evidence shall be fined One Hundred Dollars (\$100.00) for each and every day such violation of this Chapter shall continue. Each and every day shall constitute and be considered a separate offense.

ARTICLE 2 – DOGS AND CATS

9.0201 License Required

No dog or cat shall be permitted to be or remain in the City without being licensed as herein after provided if over six months of age. It shall be the duty of the owner to keeper of any dog or cat kept within the City to have the dog or cat inoculated against rabies and proof thereof is shown to the person issuing the license.

9.0202 Licensing Procedure and Terms

All dogs and cats shall be registered as to sex, breed, name and addressees of owner and name of dog. Licenses shall be issued by the city auditor on an annual basis as hereinafter more fully provided. The person paying the license fee shall receive a receipt therefore and a metal tags or badge with which to mark the animal. It shall be the duty of the owner to keeper to cause such license tag or badge to be securely attached around the animal's neck and kept there at all times during the license period.

9.0203 License Fee

The license fee shall be \$15.00 annually for each male dog and each spayed female dog: \$10.00; \$15.00 for each female dog not spayed: and \$5.00 for each male and female cat. The owner of any spayed female dog shall present to the city auditor a letter or certificate signed by a licensed veterinarian to the effect that such dog has been spayed: or such other evidence as the city auditor shall require.

9.0204 License: When Due and Payable

The license fees or renewal fees previously provided for shall become due and payable on the 3rd Saturday of January in each year and shall become delinquent on the 1st day of March in each. If the fee is not paid before the first day of May a penalty of \$25.00 shall be added to the license or renewal fee.

9.0205 Return to Owner if Known

Notwithstanding the provisions of Section 15.0206, if a dog or cat is found at large and its owner can be identified and located, such dog or cat need not be impounded but may, instead, be taken to the owner. In such case the policeman or other officer may proceed against the owner or keeper for violation of this article.

9.0206 Noisy Dog or Cat Prohibited

It shall be unlawful to keep or harbor within the City any dog or cat that disturbs the peace by habitually howling, barking, whining, meowing or making other disagreeable noise. Any person wishing to file a complaint shall be required to give his name and address and sign a complaint.

9.0207 Nuisance - When

Any dog or cat within the city limits is a public nuisance when:

- a. It frequently frightens, annoys, barks at or chases any person or vehicle;
- b. It is frequently in heat and not continually confined indoors by its owner;
- c. Is more than six months old and does not have a current vaccination or inoculations against rabies and/or has not been vaccinated against distemper;
- d. It is not wearing a collar bearing a City dog or cat license tag and rabies vaccination tag verifying up to date vaccination;
- e. An unattended animal that exhibits loud and frequent yelping, barking, crying or howling;
- f. It damages any property not the property of the owner;
- g. It runs at large upon any right of way, public property or upon the private premises of any person other than the owner or keeper of the dog or cat;
- h. It is determined to be a dangerous or vicious dog or cat.
- i. When it is dead and buried improperly, so as to cause a hazard or potential hazard to the public health.

As to nuisances, see Ch. 24 of this Code.

9.0208 Dangerous or vicious Dog or Cat Prohibited

Any person who shall knowingly keep, harbor or shelter a dangerous or vicious dog or cat within the city limits or in the extraterritorial jurisdiction of the city shall be guilty of a misdemeanor and subject to the penalties provided in this code.

9.0209 Citation to Dog or Cat Owner

Whenever a peace officer shall find a dog or cat, whether licensed or unlicensed, that meets the definition of a nuisance under any of the provisions of this article, that person may issue a citation to the owner or keeper of the dog or cat.

9.0210 Limitation on Number of Dogs and Cats – Permit to Exceed Limitation; Kennels

- a. No person shall harbor or keep more than three dogs and/or cats upon premises within the city which are owned or controlled by said person, except where permitted by the City Zoning Code and unless a special use permit is obtained, if necessary pursuant to subsections (b).
- b. The City may grant a person a special use permit and license to operate a kennel within permitted zones as described in Chapter 39. The special use permit and license shall specify the numbers of dogs and/or cats which the licensee may harbor or keep subject to such limitations and conditions listed in the special use permit and the license. The license shall attach to the premises to which it relates and shall be personal to the licensee and may not be transferred.
- c. In determining whether a permit shall be issued or not, the City shall consider:
 1. The area in square footage of the premises to which the permits relates;
 2. The proposed facilities to house the dogs and/or cats and to provide them with an exercise area;
 3. The proposed sanitation measures the licensee will employ;
 4. The size and customary habits of each type or breed of dog and/or cat sought to be kept;
 5. The distance from the kennel to premises owned by other persons;
 6. The past history of the applicant with regard to violations of this chapter and generally with regard to providing sanitary human care for dogs and/or cats; and
 7. Any other factors reasonably likely to affect adversely the persons who live, work, visit or transact business in close proximity to the proposed permit area.
- d. The willful violation of any permit term or condition shall be subject violator to an administrative fee as specified in the City fee schedule.
- e. Each person, group, association, or corporation engaged in the commercial business of buying, selling, breeding or boarding animals who owns or keeps more than three animals where permitted to do so, shall pay an annual kennel license fee in such amount as determined from time to time by the board of city commissioners and shall be on file in the city fee schedule.

9.0211 Disposition of Dog or Cat Waste

Every person having custody or control of a dog or cat on property other than his own shall be equipped to, and shall collect such dog's or cat's solid waste when eliminated. Any person having custody of a dog or cat on his premises shall not permit animal waste to accumulate on his/her property.

9.0212 Penalty

Any person, firm, corporation or limited liability company violating any of these provisions of this Chapter and the same shall be proven by a preponderance of the evidence shall be fined One Hundred Dollars

(\$100.00) for each and every day such violation of this Chapter shall continue. Each and every day shall constitute and be considered a separate offense.

CHAPTER TEN
PUBLIC NUISANCES

ARTICLE 1 - Sanitary Nuisances

- 10.0101 Residence - When Sewer and Water Required
- 10.0102 Outhouses - Cesspools - A Nuisance
- 10.0103 Outhouses - Cesspools - Exceptions
- 10.0104 Outhouses - Cesspools - Offensive Odors
- 10.0105 Outhouses - Cesspools - Cleaning of
- 10.0106 Dead Animals
- 10.0107 Water Pools - Putrid Substances

ARTICLE 2 - Smoke - Gases

- 10.0201 Smoke, Dust, Ashes, Cinders, Gases - A Nuisance
- 10.0202 Smoke, Dust, Ashes, Cinders, Gases - Prohibited

ARTICLE 3 - Radio Interference and Noise Control

- 10.0301 Radio Interference Prohibited
- 10.0302 Loud, Disturbing, Unnecessary Noises - Prohibited

ARTICLE 4 – Lot Clearing

- 10.0401 Definitions
- 10.0402 Storage or Accumulation of Trash, Rubbish, Junk, Contrary to Public Health and Safety
- 10.0403 Unlawful to Store or Accumulate Trash, Rubbish, Junk
- 10.0404 Storage or Accumulation of Building Materials Prohibited
- 10.0405 Vehicle Removal
- 10.0406 Conditions When Junk or Abandoned Vehicle May be Sold Immediately
- 10.0407 Notice to Owners of Abandoned Vehicle
- 10.0408 Right of Owner to Reclaim Abandoned Vehicle
- 10.0409 Disposal of Vehicle – Disposition of Proceeds
- 10.0410 Disposal of Vehicles Not Sold
- 10.0411 Contract for Disposal
- 10.0412 Restrictions on Storage of Vehicles by Collector

ARTICLE 5 - Noxious Weeds and Tall Grasses

- 10.0501 Definition
- 10.0502 Weeds and Tall Grasses Prohibited
- 10.0503 Notice to Destroy
- 10.0504 Action Upon Non-Compliance
- 10.0505 Cost Assessed to Property

ARTICLE 6 – General Penalty Provision

- 10.0601 Penalty for Violation of Chapter

ARTICLE 7 – Nuisance-Abatement

- 10.0701 Authority to examine premises
- 10.0702 Notice to Abate or Remove
- 10.0703 Notice to Abate or Remove – Failure to Comply

- 10.0704 Authorized Persons to Enter Abatement Orders
- 10.0705 Abatement of Nuisance Costs

CHAPTER TEN

PUBLIC NUISANCES

ARTICLE 1 – Sanitary Nuisances

10.0101 Residence – When Sewer and Water Required

It shall be unlawful for any person to use or occupy or permit to be used or occupied for residence purposes, any premises or building within the corporate limits of this City without first making or causing to be made proper connections with the City's sewer and water facilities and mains.

The term "proper connections" when used in this section shall be construed to mean connections with the water mains and sanitary sewers which are equipped and furnished with proper valves and fittings so as to enable such water connections to be used at all times. Sanitary toilets and drains and such equipment shall at all times be kept in repair so as to make them available for household use and in condition to be used at all seasons of the year.

10.0102 Outhouses – Cesspools – A Nuisance

The use, construction, maintenance, building or erection of any outhouse, privy, vault or cesspool within this City is hereby declared to be a nuisance and a menace to public health, when in violation of Section 12.0101.

10.0103 Outhouses – Cesspools – Exceptions

1. Private sewage system and private water supplies may be constructed to serve new buildings to be built in areas not included in Section 12.0101, providing such lot area complies with the requirements of any zoning requirements.
2. Private sewage systems and private water systems may be installed in existing buildings in areas not included in Section 12.0101.
3. Each private sewage system or private water supply hereafter altered or constructed shall conform to the State Health Department Standards.

10.0104 Outhouses – Cesspools – Offensive Odors

It shall be unlawful for the owner or occupant of any lot or piece of ground within the corporate limits of this City to permit any private sewer system to emit any offensive odors or to become dangerous or injurious to public health or offensive to sense of smell of the people of the City. Any private sewer system emitting such odor is hereby declared to be a nuisance and a menace to the public health of the City.

10.0105 Outhouses – Cesspools – Cleaning of

In the cleaning of private septic tanks and sewage systems the contents thereof shall be removed in containers fitted so as to prevent the escape of odors or materials therefrom and disposed of in a manner approved by the City health officer.

The pumping of a private sewage system on the surface of the ground or hauling contents thereof in such a manner as to allow the material to spill on the ground, street or public ways is hereby declared to be a public nuisance.

10.0106 Dead Animals

Any person who owned or had possession or control of a dead animal prior to its death shall remove or cause the same to be removed within five (5) hours from the time the animal dies and have the same buried or disposed of in some other sanitary way approved by the City health officer. Any dead animal remaining in any street, alley or other public place in this City, or in any private premises within this City, for more than five (5) hours after the animal shall have died, is hereby declared to be a nuisance. Any person allowing any animal which that person controlled or possessed, prior to its death, to remain in any street, alley or public place, or on any private premises within the City for more than five (5) hours after its death shall be guilty of a violation of this Article.

10.0107 Water Pools – Putrid Substances

It shall be unlawful for the owner or occupant of any parcel of ground in this City to suffer or permit water or putrid substance whether animal or vegetable to accumulate or stand so as to cause an offensive odor to be emitted therefrom or to become injurious or dangerous to the health of the neighborhood. Any pool of water and any putrid substance permitted to become offensive or injurious to the public health are hereby declared to be a public nuisance.

ARTICLE 2 – SMOKE – GASES

10.0201 Smoke, Dust, Ashes, Cinders, Gases – A Nuisance

The emission of dense smoke, ash, dust, cinders or noxious gases from any machine, contrivance or from the smoke stack or chimney of any building or premises in such quantities as to cause injury or detriment to any person or persons or to the public, or to endanger the comfort, health or safety of any person or persons, or in such manner as to cause or tend to cause damage or injury to property, is hereby declared to be a public nuisance.

10.0202 Smoke, Dust, Ashes, Cinders, Gases – Prohibited

No person, persons, association or corporation shall cause, permit or allow the escape from any smoke stack or chimney into the open air, of such quantities of dense smoke, ash, dust, soot, cinders, acid or other fumes, dirt, or other material, or noxious gases, in such place or manner as to cause injury, detriment or nuisance to any person or persons, or to the public, or to endanger the comfort, health or safety to any such person or persons, or the public, or in such manner as to cause or have a natural tendency to cause injury or damage to business or property.

ARTICLE 3 – RADIO INTERFERENCE AND NOISE CONTROL

10.0301 Radio Interference Prohibited

It shall be unlawful for any person knowingly to maintain, use, operate or cause to be operated within this City, any machine, device, appliance, equipment or apparatus of any kind whatsoever, the operation of which shall cause reasonably preventable electrical interference with radio reception within said municipal limits. The maintenance, use or operation within the City of any machine, device, appliance, equipment or apparatus of any kind so as to interfere with radio reception in violation hereof is hereby declared a public nuisance.

10.0302 Loud, Disturbing, Unnecessary Noises – Prohibited

The making, creating or maintenance of loud, unnatural or unusual and disturbing noises are a detriment to public health, comfort, convenience, safety and welfare, and are hereby declared to be unlawful and a public nuisance. The following acts, among others, are declared to be prohibited noises in violation of this section, but such enumeration is not exclusive:

1. The sounding of horns or signaling devices on any motor vehicle or motorcycle on any street or public place except as a danger warning.

2. 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 person or persons who are in the room, vehicle or chamber in which such machine or device is operated, and who are voluntary listeners thereto. The operations of any such set, instrument, phonograph, machine or device in such a manner as to be 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.
3. The using, operating or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of advertising or attracting the attention of the public to any structure.
4. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 PM and 7:00 AM, 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.
5. 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 workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed indicating that a school, hospital, or court is in the vicinity.
6. A violation of this Section shall be an infraction.

ARTICLE 4 – LOT CLEARING

10.0401 Definitions

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. “Abandoned motor vehicle” means any motor vehicle, as defined in section 39-01-01 of the North Dakota Century Code, regardless of model years of age of the motor vehicle, that has remained for a period of 48 hours or more on public property illegally or lacking vital component parts, or has remained for a period of 48 hours or more on private property without the consent of the owner or occupant of such property or in an inoperable condition such that it has no substantial potential further use consistent with its usual functions unless it is kept in an enclosed garage or storage building. It also means a motor vehicle voluntarily surrendered by its owner to a person duly licensed under section 39-26-10 of the North Dakota Century Code. An antique automobile and other motor vehicles to include parts cars and special interest vehicles, may not be considered an abandoned motor vehicle within the meaning of this article. (Source: North Dakota Century Code section 39-26-02(1))
2. “Antique motor vehicle” means any motor vehicle, which is at least forty years old and has a current license pursuant to section 39-04-10.4 of the North Dakota Century Code.
3. “Building materials” includes, without limitation, lumber, bricks, 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.

4. "Collector" means the owner of one or more special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest vehicles or parts thereof for the person's own use in order to restore, preserve, and maintain a special interest vehicle or antique vehicle. (Source: North Dakota Century Code section 39-26-02(2))
5. "Department" means the city police department, the city street department, a state-licensed peace officer, or the state or county health department.
6. "Junk" includes, without limitation, parts of machinery or motor vehicles, tires, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal, or other castoff material of any kind, whether or not the same could be put to any reasonable use.
7. "Junk automobile" includes, without limitation, any motor vehicle, as defined in section 39-01-01 of the North Dakota Century Code, regardless of the age of the motor vehicle, which is not licensed for use upon the highways of the state for a period in excess of 30 days, and shall include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of 30 days, provided that there is excepted from this definition unlicensed but operative vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer.
8. "Parts car" means a motor vehicle generally in nonoperable condition which is owned by the collector to furnish parts to restore, preserve, and maintain a special interest vehicle or antique vehicle. (Source: North Dakota Century Code section 39-26-02(5))
9. "Special interest vehicle" means a motor vehicle which is at least twenty years old and which has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists. (Source: North Dakota Century Code section 39-26-02(6))
10. Trash or rubbish includes any and all forms of debris not herein otherwise classified.
11. Vital component parts means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train, and wheels. (Source: North Dakota Century Code section 39-26-02(8)).

10.0402 Storage or Accumulation of Trash, Rubbish, Junk, Contrary to Public Health and Safety

It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk automobiles, abandoned motor vehicles, building materials, and the maintenance of blighted structures upon private property within the city 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. (Source: North Dakota Century Code section 39-26-01)

10.0403 Unlawful to Store or Accumulate Trash, Rubbish, Junk

It shall be unlawful for any person to store, or permit the storage or accumulation of, trash, rubbish, junk, junk automobiles, or abandoned motor vehicles on any private property in the city except within a completely enclosed building, or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in second-hand goods or junk gatherer.

Such storage or accumulation of trash, rubbish, junk, junk automobiles, or abandoned vehicles on any private property in the city is hereby declared to be a nuisance and shall be abated in the manner described in this Article.

10.0404 Storage or Accumulation of Building Materials Prohibited

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 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 and such construction is completed within a reasonable time.

Such storage or accumulation of building materials on any private property in the city is hereby declared to be a nuisance and shall be abated in the manner described in this Article.

10.0405 Vehicle Removal

The City 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 the property of its intention to do so at least forty-eight hours prior to the removal. The notice shall be served personally upon the owner or occupant of the property if occupied or sent certified mail to the owner or occupant's address, or may be posted in a conspicuous place upon vacant or unoccupied property. The junk automobiles or abandoned vehicles or parts of either, shall be removed to the automobile pound 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 chapter 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. The cost of removal of the vehicles shall be assessed to the property owner after written notice is given to the property owner. (Source: North Dakota Century Code section 39-26-02)

10.0406 Conditions When Junk or Abandoned Vehicle May be Sold Immediately

When a junk automobile or an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in the state or any other state or foreign country, it is immediately eligible for disposition and must be disposed of to a scrap iron processor licensed under section 39-26-10 of the North Dakota Century Code and is not subject to the notification, reclamation, or title provisions of this article. Any license plate displayed on any such vehicle must be removed and destroyed prior to the purchaser taking possession of the vehicle. (Source: North Dakota Century Code section 39-26-05)

10.0407 Notice to Owners of Abandoned Vehicle

1. When an abandoned motor vehicle does not fall within the provisions of Section 12.0406, the city taking it into custody shall give notice of the taking within ten days. The notice must set forth the date and place of the taking, the year, make, model, and serial number of the abandoned motor vehicle and the place where the vehicle is being held, must inform the owner and any lienholders or secured parties of their right to reclaim the vehicle under section 12.0408, and must state that failure of the owner or lienholders or secured parties to exercise their right to reclaim the vehicle is deemed a waiver by them of all right, title, and interest in the vehicle and a consent to the disposal of the vehicle pursuant to Section 12.0409.

2. The notice must be sent by certified mail, return receipt requested, to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders or secured parties of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice must be published once in a newspaper of general circulation in the area where the motor vehicle was abandoned. Published notices may be grouped together for convenience and economy. (Source: North Dakota Century Code section 39-26-06).

10.0408 Right of Owner to Reclaim Abandoned Vehicle

1. The owner, secured parties, or a lienholder of an abandoned motor vehicle has a right to reclaim such vehicle from the city taking the motor vehicle into custody upon payment of all towing and storage

charges resulting from taking the vehicle into custody within thirty days after the date of the notice required by Section 10.0407.

2. Nothing in this chapter may be construed to impair any lien of a garagekeeper under the laws of this state or the right of a lienholder or secured parties to foreclose. For the purposes of this section, "garagekeeper" is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair, or maintenance of motor vehicles. (Source: North Dakota Century Code section 39-26-07)

10.0409 Disposal of Vehicle – Disposition of Proceeds

1. An abandoned motor vehicle not more than seven model years of age taken into custody by the city and not reclaimed under Section 12.0408 must be sold to the highest bidder at public auction or sale, following reasonable published notice thereof. The purchaser must be given a receipt in a form prescribed by the North Dakota Department of Health which shall be sufficient title to dispose of the vehicle. The receipt also entitles the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. The license plates displayed on an abandoned vehicle must be removed and destroyed prior to the purchaser taking possession of the vehicle.

2. From the proceeds of the sale of an abandoned motor vehicle, the city may reimburse itself for the cost of towing, preserving, and storing the vehicle, and for all notice and publication costs incurred under this chapter. Any remainder from the proceeds of a sale must be held for the owner of the vehicle or entitled lienholder or secured parties for ninety days and then must be delivered to the administrator of the North Dakota state abandoned property office in accordance with chapter 47-30.1 of the North Dakota Century Code. (Source: North Dakota Century Code section 39-26-08)

10.0410 Disposal of Vehicles Not Sold

When no bid has been received for an abandoned motor vehicle, the unit of government may dispose of it pursuant to contract under Section 12.0411. (Source: North Dakota Century Code section 39-26-09)

10.0411 Contract for Disposal

The city may contract with any qualified licensed scrap iron processor, licensed by the North Dakota Department of Health, for collection, storage, incineration, volume reduction, transportation, or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal. Such contract may authorize the contracting scrap iron processor to pay to the owner of any abandoned motor vehicle an incentive payment for such vehicle if it is voluntarily surrendered and delivered to the scrap iron processor. For the purposes of this section, an owner of an abandoned motor vehicle includes only a person who has owned and operated the vehicle for the person's personal or business use. (Source: North Dakota Century Code section 39-26-10)

10.0412 Restrictions on Storage of Vehicles by Collector

A collector may store unlicensed, operable or inoperable, vehicles and parts cars, including antique motor vehicles, junk automobiles, and abandoned motor vehicles, and special interest vehicles, on the collector's property provided such vehicles and parts cars are kept in an outdoor storage area which is maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, trees, shrubbery, or other appropriate article. (Source: North Dakota Century Code section 39-26-13)

ARTICLE 5 – NOXIOUS WEEDS AND TALL GRASSES

10.0501 Definition

Whenever used in this ordinance, the term “noxious weeds” shall mean and include all weeds of the kind known as Canada Thistle, sow thistle, quack grass, leafy spurge (Euphorbia esula or Ruphrobia virgata), field bindweed, Russian knapweed, (Centaurea picris), hoary cress (Lapidium draba, Lepidium reoebes, abd Humenophysa pubescens), dodder, or any similar unwanted vegetation over eight inches in height.

Whenever used in this ordinance, the term “tall grasses” shall mean all grass in excess of eight inches in height.

10.0502 Weeds and Tall Grasses Prohibited

No owner of any lot, place or area within the City 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 tall grasses.

10.0503 Notice to Destroy

The City health officer or person designated by the City is hereby authorized and empowered to notify in writing the owner of any lot, place, or area within the City or the agent of such owner, to cut, destroy, and /or remove any noxious weeds or tall grasses found growing, lying, or located on such owner’s property or upon the one-half of any road or street lying next to the lands or boulevards abutting thereon. The notice shall be by registered or certified mail addressed to said owner or agent of said owner at their last known address and shall give such owner or agent a minimum of five days to cut or destroy the noxious weeds or tall grasses.

10.0504 Action Upon Non-Compliance

Upon the failure, neglect, or refusal of any owner or agent to cut, destroy and/or remove noxious weeds or tall grasses growing, lying or located upon the owner’s property or upon the one-half of any road or street lying next to the lands or boulevards abutting thereon, after receipt of the written notice provided for in 12.0503 or within five days after the date of such notice in the event the same is returned to the City because of inability to make delivery thereof, the health officer or person designated by the City is hereby authorized and empowered to pay for the cutting, destroying, and/or removal of such noxious weeds or tall grasses or to order their removal by the City.

10.0505 Cost Assessed to Property

When the City has affected the removal of such noxious weeds or tall grasses or has paid for their removal, the actual cost thereof, if not paid by the owner prior thereto, shall be charged and assessed against the property upon which the noxious weeds or tall grasses were cut or destroyed. An assessment list showing the lots or tracts to be assessed with the cost against each lot or tract shall be prepared as are other special assessment lists and shall be approved by the governing body. Such assessments shall be subject to the same procedure for certification to the county auditor, payment and collection as are other special assessments under state law. (Source: North Dakota Century Code section 40-05-01.1).

ARTICLE 6 – GENERAL PENALTY PROVISION

10.0601 Penalty for Violation of Chapter

Any person violating any of the provisions of this Chapter shall be fined, upon a finding by a preponderance of the evidence, One Hundred Dollars (\$100.00) for each and every day such violation of this Chapter shall continue. Each and every day shall constitute and be considered a separate offense.

ARTICLE 7- NUISANCES- ABATEMENT

10.0701 Authority to examine premises

Any person designated by the governing body shall have authority to enter into and examine at any time all buildings, lots and premises of any description within the city, for the purpose of ascertaining the condition thereof, or determining if there has been a violation of any of the provisions of this chapter, or if a nuisance, source of filth or cause of sickness exists on such property, so far as the public health may be affected thereby.

10.0702 Notice to Abate or Remove

In all cases in which any person designated by the City shall find a violation of any of the provisions of this chapter or shall deem it necessary for the protection of the public health, to abate or remove any nuisance, source of filth, or cause of sickness which shall be found on private property, it shall cause a notice in writing to be served on:

1. The property owner;
2. The person in charge of the property, including any agent, occupant, lessee, contract purchaser, or person other than the owner having possession, exercising dominion or control of the property; and/or
3. The person who creates, causes, permits, suffers, continues, or maintains a nuisance.

For abating or removing the nuisance, source of filth, or cause of sickness, and requiring such person, at such person's own expense, to abate or remove the nuisance, source of filth, or cause of sickness found to exist, and to put the property into good sanitary condition within a reasonable time to be fixed by the person designated by the City Commission, not less than 24 hours or not exceeding 30 days after service of such notice.

10.0703 Notice to Abate or Remove – Failure to Comply

If the owner or occupant refuses or neglects to comply with such notice in accordance with Section 12.0702, or if such nuisance, source of filth or cause of sickness exists on the property of the owner of which cannot be found, the person designated by the governing body shall cause the removal of such nuisance, source of filth or cause of sickness, and shall put the said property in good sanitary condition.

10.0704 Authorized Persons to Enter Abatement Orders

The person designated by the governing body shall have authority hereunder to enter orders to fill or drain any lot or piece of ground upon which stagnant water has accumulated, or to cut and remove any noxious or other weeds, or to remove any animal or vegetable refuse matter or any putrid or unwholesome substance, or any outhouses, privies, vaults or other structures prohibited by this chapter, or do whatever in the person's judgment is necessary to put any building, place or property into a good sanitary condition.

10.0705 Abatement of Nuisance Costs

1. An accurate account of the costs incurred to abate or remove the nuisance with reference to each lot or parcel of ground shall be kept and paid by the city. Such costs, however, shall be certified by the person designated by the governing body to the city auditor and shall be assessed as follows:
 - a. Against the lot or parcel of land upon which the work to abate or remove the nuisance has been done. (Source: North Dakota Century Code section 40-05-01.1)
 - b. Against each person responsible for abating the nuisance.
2. In addition to being assessed against the lot or parcel of land upon which the work has been done, each person responsible for abating or removing the nuisance shall be served with a statement of the costs to be assessed, and each shall be liable for such costs incurred in abating or removing the

nuisance by the city. Such costs may be recovered by a suit at law or equity, or any other manner provided by law.

CHAPTER ELEVEN

FRANCHISE

ARTICLE 1 – Grant of Franchises

- 11.0101 Power to Grant
- 11.0102 Compliance with Applicable Laws and Ordinances
- 11.0103 Indemnification
- 11.0104 Insurance

CHAPTER ELEVEN
FRANCHISE

ARTICLE 1 – GRANT OF FRANCHISES

11.0101 Power to Grant

The City governing body may grant to any person, association, corporation, or limited liability company firm a franchise or special right or privilege to operate or do business in the City, but such franchise shall be subject to the provisions of this article.

Source: North Dakota Century Code Section 40-05-01 (57)

11.0102 Compliance with Applicable Laws and Ordinances

The grantee of any franchise during the life of the franchise shall be subject to all lawful exercise of the police power of the City, and to such reasonable regulation, as the City shall by resolution or ordinance provide.

11.0103 Indemnification

The grantee of any franchise shall indemnify and save the City and its agents and employees harmless from all and any claims for personal injury or property damages and any other claims or costs, including attorney's fees, expenses of investigation and litigation of claims and suits thereon which may result from the activities of the grantee of the franchise in the City.

11.0104 Insurance

Any grantee of a franchise by the City shall carry and keep in force a public liability policy of insurance, insuring the grantee of the franchise and the City against any and all liability, of not less than two hundred fifty thousand dollars (\$250,000.00) for any one person, property damage, personal injury, or death, and one million dollars (\$1,000,000.00) for any single occurrence resulting in property damage, personal injury, or death. The City may demand proof of such insurance coverage through an insurance company licensed to do business in the State of North Dakota.

Source: North Dakota Century Code section 32-12.1-03

CHAPTER TWELVE

BUILDING CODE

ARTICLE 1 – GENERAL BUILDING CODE

- 12.0101 Adoption of Code
- 12.0102 Amendments, Deletions, Additions to Code
- 12.0103 Clarification of Code
- 12.0104 Fees

CHAPTER TWELVE

BUILDING CODE

12.0101 Adoption of Code

The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, uses, height, area and maintenance of buildings or structures in the City 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, a copy of which is on file with the city auditor. That code is hereby adopted and made a part of this chapter by reference with the exception of the following sections affecting local conditions in the City.

Source: North Dakota Century Code chapter 54-21.3)

12.0102 Clarification of Code

For the purpose of clarifying the Building Code adopted above.

1. "Municipality" or "City" shall mean the City of Gladstone..
2. Any reference to fire limits within the City shall mean the fire limits set out in Chapter Four.

13.0103 Fees

Fees under the Building Code shall be set by resolution by the City.

12.0103 Penalties

A person or entity found violating this Chapter shall be fined, upon a finding by a preponderance of the evidence, One Hundred Dollars (\$100.00) for each and every day such violation of this Chapter shall continue. Each and every day shall constitute and be considered a separate offense.

Source: Section 40-05-01 (1), 40-05-02 (6, 7, 23), 54-21.3-03, 54-21.3-05, and Chapters 54-21.2 and 54 21.3 generally, NDCC

CHAPTER THIRTEEN

ELECTRICAL CODE

ARTICLE 1 - Adoption of Electrical Code

13.0101 Electrical Code Adopted

ARTICLE 2 - Permits

13.0201 Permit Required
13.0202 Permit, Application for
13.0203 Permit, Grant of
13.0204 Reserved
13.0205 Work by Licensed Electrician, When Not Required
13.0206 Uses of License by Another
13.0207 Return of Permit - Work Completed
13.0208 Inspection of Work
13.0209 Fees for Permits

ARTICLE 3 - Supervision of Work

13.0301 Supervision of Work
13.0302 Powers
13.0303 Existing Installations
13.0304 Defective Work

CHAPTER THIRTEEN

ELECTRICAL CODE

ARTICLE 1 – ADOPTION OF ELECTRICAL CODE

13.0101 Electrical Code Adopted

There is hereby adopted the rules for electrical wiring and equipment as adopted by the State Electrical Board and any future updates, and amendments to those rules, a copy of which is on file in the office of the city auditor of the City, and the same is hereby adopted as fully as if it were set out at length herein.

ARTICLE 2 - Permits

13.0201 Permit Required

No person shall begin any electrical work for which a permit is required until that person has made application for a permit to the city building inspector, city auditor, or person designated by the City and the permit has been granted. All electrical work shall be performed in strict compliance with the laws of the State of North Dakota, and the provisions of this article, together with such rules and regulations as the City shall make from time to time for the execution of the same.

13.0202 Permit - Application For

Any person desiring to perform any electrical work within the corporate limits shall make application for a permit to carry on such work. Application shall be in a form containing such information regarding the proposed work, as the City shall prescribe.

13.0203 Permit - Grant of

When, after due consideration and examination, it appears that the provisions of this article are complied with, the permit asked for shall be issued.

13.0204 Work by Licensed Electrician

All electrical work hereafter to be installed in any building within the corporate limits, shall be undertaken and executed only by persons holding a master electrician's licenses or a class B electrician's license where applicable as provided in the laws of the State of North Dakota.

13.0205 Work by Licensed Electrician, When Not Required

No permit or application for a permit shall be required for the installation of electrical wiring for electrical installations made upon their own property by public service corporations, which hold franchises from the City for the manufacture and distribution of electric power.

13.0206 Uses of License by Another

No person holding a master electrician's license or a Class B electrician's license shall allow the use of his name, or any permit granted to him, by any other person.

13.0207 Return of Permit – Work Completed

Within five (5) days after the completion of any electrical work, the permit under which the work was executed shall be returned by the holder thereof to the city inspector, city auditor, or person designated by the City with a notation thereon of such completion.

13.0208 Inspection of Work

Upon completion of the work, which has been authorized by the issuance of an electrical permit, it shall be the duty of the master electrician to request an inspection of his work by the city inspector. Such inspection shall be requested and conducted before the electrical work is covered by other building components.

In a case where such work includes a new or altered electrical service, the utility company shall not make any connection unless the service entrance bears a notice signed by the city inspector that said wiring has been inspected and approved by the city inspector.

13.0209 Fees For Permits

Applicants for permits for electrical installations at the time such permits are issued, must pay to the City a fee in accordance with the City Fee Schedule.

ARTICLE 3 – SUPERVISION OF WORK

13.0301 Supervision of Work

All electrical installations now existing or hereafter to be made, altered or repaired in or upon any building in the City shall be under the supervision of the city inspector who shall require such work to comply with this article and City ordinances.

13.0302 Powers

The city inspector shall have the right during reasonable hours to enter any building in the discharge of duties, or for the purpose of making any inspection or test of the electrical installation or electrical equipment contained therein. The city inspector is hereby empowered to disconnect or order the discontinuance of electrical service to any electric wiring or equipment found to be defectively installed or otherwise not in conformity with the provisions of this article until the wiring or equipment shall have been made safe.

13.0303 Existing Installations

All existing electrical installations and devices on any premises or upon any building or structure in the City shall be subject to inspection by the city inspector and if in the opinion of the city inspector a hazard exists the owner shall be notified with an order requiring that the hazard be corrected. In the case where the owner fails to comply with the city inspector's order, the service to the premises, structure or building shall be disconnected.

13.0304 Defective Work

The city inspector is hereby given authority to order the removal and replacement, or the alteration of any installation or portion thereof for which a permit has been obtained, should it be determined upon inspection of the installation that it has been executed in violation of any of the provisions of this Article. It shall thereafter be unlawful for any person in any way to use such installation, or to supply the power thereto, until the same has been made to conform to the provisions of this Article. No permit for any other work shall be issued to any applicant who has executed any work in violation of the provisions of this Article until such work has been made to conform to those provisions.

CHAPTER FOURTEEN

CEMETERIES

ARTICLE 1 – Cemeteries

- 14.010 Cemetery defined
- 14.020 Cemetery Director – Office Created; Appointed
- 14.030 Same – Duties Generally
- 14.040 Disclaimer by City
- 14.050 “Resident” defined; Applicability of Definition to Infants
- 14.060 Regulations Applicable to General Care Area
- 14.070 Monuments Generally
- 14.080 Markers Generally
- 14.090 Surface Vaults Prohibited
- 14.100 Outer Burial Containers
- 14.110 Interments and Funerals Generally
- 14.120 Disinterment’s
- 14.130 Relocating Bodies
- 14.140 Vacated Lots
- 14.150 Services by City for Undertakers
- 14.160 Conduct of Persons in Cemetery
- 14.170 Selecting Sites
- 14.180 Payments for Right of Burial
- 14.190 Purchase of Cemetery Lots – Generally
- 14.200 Charges for Sites of Burial
- 14.210 Same – Right of Burial
- 14.220 Repurchase of Lots by City
- 14.230 Recording Change of Ownership
- 14.240 Payments for Services Payable in Advance
- 14.250 Disinterment Charge
- 14.260 Undertakers to Assume Liability for Certain Chargers
- 14.270 Reports; Disposition of Fees Collected; Accounting Procedures
- 14.280 Endangered Grave Sites

CHAPTER FOURTEEN

CEMETERIES

ARTICLE 1 – CEMETERIES

14.010 “Cemetery” defined

Wherever the word “cemetery” appears in this chapter, it shall be construed to mean a place for burying the dead on all grounds owned and maintained by the city for this purpose.

14.020 Cemetery Director – Office Created; Appointment

A cemetery director may be appointed by the city council.

14.030 Same – Duties Generally

The cemetery director shall have the following duties:

- a. He shall have charge of the cemetery grounds.
- b. He shall not allow any body to be buried in the cemetery, or allow any grave to be opened, except as prescribed by this chapter.
- c. He shall perform the necessary services for improving, protecting and beautifying the grounds as directed by the city council, regarding cemetery development.
- d. He shall have the right to approve the quality and workmanship of a marker of monument and further has the authority to make such company or persons remove these items at their cost if his approval has not been obtained.
- e. He shall report promptly to the city council any violations of this chapter pertaining to cemetery regulations.

14.040 Disclaimer by City

The city shall take every reasonable precaution to protect the property within the cemetery, but it distinctly disclaims all responsibility for loss or damage, whether direct or collateral, from the acts of thieves, vandals, rioters and malicious mischief makers; from all acts of Providence, including but not limited to winds, tornadoes, cyclones, hail, snow, frost, fire, explosion or lightning; and from breakage or accident to equipment of any kind and character and from all causes beyond its reasonable control.

14.050 “Resident” Defined; Applicability of Definition to Infants

- a. For the purpose of this chapter, the word “resident” is defined as a person who lived within the corporate limits of the city immediately preceding the date of death and is a bona fide resident of the city under North Dakota law. Reference NDCC Sections 54-01-21, 54-01.26, and other pertinent sections of NDCC. All other persons shall be considered as nonresidents.
- b. In the case of the death of an infant whose parents meet residency requirements, resident rates shall apply. In all other cases, nonresident rates shall apply.

14.060 Regulations Applicable to General Care Area

- a. In the cemetery area the city shall not provide for the care of private mausoleums, monuments or markers set out or take care of any decorative planting; it shall, however, undertake to keep the grass cut and to maintain the entire area in a neat and generally tidy condition.
- b. Lot owners or authorized persons may have any special work, consistent with this section, done by the city, who shall furnish estimates of cost to perform the work. Lot owners or authorized persons wishing to have the work done must give the city council a signed order covering the proposed improvements.
- c. Lot owners or members of their families are permitted to do any work not involving construction and not otherwise prohibited by this chapter on their sites, either before or after interments. All of the works shall be subject to the general direction of the city council or cemetery director.
- d. No corner stakes of any lot shall be disturbed.
- e. No lot or grave shall be defined by any fence, railing, coping, hedge, embankment or depression, nor may trees or shrubs be planted to define corners or boundaries. No cement curbs shall be permitted, and all unsightly curbs shall be removed.
- f. The planting of common lilac bushes and any kind of iris or vines is not permissible, and any uncared for common lilacs may be removed at the discretion of the cemetery director.
- g. Existing trees generally will not be removed to make additional burial space.
- h. To prevent injury to adjoining lots and to preserve the beauty of the grounds, no trees, shrubs or plants shall be planted on lots or graves, nor shall any existing trees, shrubs or plants be cut down, removed or trimmed, except under the direction of the cemetery director or the city council.
- i. The decoration of graves shall be limited to the placing of wreaths, sprays or flower boxes, and the placing of cut flowers shall be restricted to those graves which have a regular container for that purpose. The use of jars, tin cans, ect., is prohibited. Spading up of grass will be permitted only for the purpose of planting grass. Planting of flowers is restricted to flower boxes and bases upon concrete foundations upon the grave site only.
- j. Withered plants and flowers will be removed from the lots, vases and urns.
- k. Chairs, settees, benches or steps leading to lots, or boxes, shells, tops, wire screens, rustic works, ornaments or architectural objects, are not permitted.
- l. Individual mausoleums are not permitted.
- m. The use of monuments is permitted, subject to the provisions of this chapter.
- n. Grave covers shall not be allowed in a cemetery. Any and all covers which are situated in the cemetery determined by the cemetery director or city council to be in a state of disrepair or otherwise in need of maintenance, repair or servicing shall be removed.

14.070 Monuments Generally

- a. Any stone exceeding one foot in height, two feet in length or one foot in thickness shall be classified as a monument.
- b. Only one monument shall be permitted for any one family group.
- c. No monuments or portions thereof made of any material other than granite, marble or standard bronze shall be allowed in the cemetery.
- d. All foundations for monuments shall be of concrete, not to exceed two feet in depth, at the expense of the owners.
- e. The foundations shall be built so as to provide a border around the bottom of the base of the monument and shall be adequate to permanently support the monument in true position.
- f. All monuments must be located as directed by the cemetery director or city council.
- g. No person shall be allowed to remove and monument from the cemetery or to clean or to alter any monument erected in the cemetery without first securing permission from the cemetery director or city council.

14.080 Markers Generally

- a. Any stone not more than one foot high and not more than two feet in length, and not more than one foot nor less than six inches thick, shall be classified as a marker.
- b. Markers for use in making graves in baby plots shall be of the surface type and must not exceed one foot in length or one foot in width and shall not be more than six inches thick.
- c. No permanent marker made of any material other than granite, marble or standard bronze will be permitted for use in the cemetery.
- d. All markers shall be set in concrete foundation, which shall have a concrete border around the marker, and the concrete border shall be flush with the level of the ground.
- e. The location of the markers and all work in connection with setting them shall be under the direction of the cemetery director or city council.

14.090 Surface Vaults Prohibited

Surface vault burials shall no longer be allowed in any city cemetery except for those already placed on the site.

14.100 Outer Burial Containers

All burials in city-owned cemeteries shall be concrete vaults or concrete grave liners in a grave with a base or floor five feet below the surface with a minimum of 18 inches at any point, of earth on top of the concrete vaults or concrete grave liners.

14.110 Interments and Funerals Generally

- a. The time of funeral services shall be scheduled by the funeral director with the city auditor twenty-four hours in advance of the services during the summer and fort-eight hours during the winter. Requests are to be accompanied by the legal burial permits and local burial requests.

- b. Not wanting to prolong the grief of those mourning the loss of loved ones, it is the intention of the city to accommodate the burial of deceased individuals in a timely manner. However, the physical condition of the cemeteries, i.e., frozen soil, saturated ground, the placement of graves, accumulation of snow, etc., may make timely interment difficult. The city reserves the right to require that the remains of any deceased person be stored until such time as interment becomes possible without damaging city cemeteries. The judgment of the city council shall prevail in these matters.
- c. The name of the deceased, his race, place of nativity, last residence, age, disease, date of death, date of interment, place of death, whether married, widowed or single and the name of his nearest kindred are required for record. No burials will be allowed without this information.
- d. If the order for the interment is for a deceased person not of the immediate family of the lot owner, permission in writing from the lot owner or other authorized person must be filed with the city auditor.
- e. When lots are held jointly by two or more persons, by descent, devise or purchase, an order will be accepted from either of them or their heirs for interment in the lots as the order shall require.
- f. Orders of burials over the telephone will be accepted only at the option of the city auditor, because of the possibility of mistakes.
- g. Funerals while within the cemetery grounds shall be under the control of the cemetery director or city council.

14.120 Disinterments

Graves will be reopened for official inspection or for any other purpose only when all statutory provisions relating to the opening of graves have been complied with and the regular charge for a disinterment is paid to the city.

14.130 Relocating Bodies

Should the owner of a single lot in the cemetery area in which an interment has been made or should an authorized person wish to secure two or more laterally adjacent lots elsewhere in the cemetery in order to provide for contiguous burials, he may have the body in the single lot disinterred and reinterred in the new location by paying the regular charges both for disinterment and for the reinterment and by conveying to the city the vacated lot. The amount of the refund for such vacated lot, if any, shall be determined by the cemetery director or city council and shall not exceed the purchase price paid by the owner.

14.140 Vacated Lots

Should any single lot be vacated and the body removed from the cemetery, the regular charge for disinterment must be paid. The title to the lot remains in the family or may be brought back by the city.

14.150 Services by City for Undertakers

For the convenience of the city as well as the undertakers, the city, if requested, shall perform such services for the undertakers as, in the opinion of the cemetery director or city council, shall be proper and feasible and which will in no manner whatsoever interfere with the duties and functions of the cemetery employees.

14.160 Conduct of Persons in Cemetery

- a. Lot owners, their families and visitors shall be admitted daily to the cemetery and are requested to observe all rules adopted for the regulation of visitors.
- b. Children must be accompanied by parent or guardian.
- c. Bicycle riding shall not be permitted in cemetery.
- d. Bicycles shall not be leaned against stonework of any kind.
- e. Liquor consumption shall not be allowed within cemetery grounds.
- f. Firearms shall not be permitted, other than for regular burial services.
- g. Dogs and cats shall not be permitted.
- h. Cumbersome trucks and vehicles shall not be allowed to enter the grounds without special permission of the cemetery director or city council.
- i. All persons are strictly prohibited from plucking any wild or cultivated plants, breaking any tree or shrub, marring any stonework or defacing property of lot owners or of the city.
- j. No improper use of the national flag will be permitted in the cemetery, nor will the display of any worn out and tattered flag be allowed.
- k. It is the utmost importance that there should be a strict observance of all the proprieties due the place, whether embraced in this section or not. No impropriety will be tolerated, and all well-disposed persons will confer a favor by informing the cemetery director or city council at once of any breach of decorum that may come to their notice.

14.170 Selecting Sites

Persons desiring to purchase rights of burial are invited to visit the city auditor's office, where the city auditor will aid in making a selection.

14.180 Payments for Right of Burial

All payments for lots are payable in advance, except as otherwise provided.

14.190 Purchase of Cemetery Lots - Generally

- a. When the buyer desires to purchase two or more single grave lots in the cemetery area, the city reserves the right to insist that the selection shall be made in such a location and manner as not to leave any isolated single grave lots alongside those purchased.
- b. Single grave lots shall normally be sold only from single grave lot sections, except as isolated single grave lots may be elsewhere available. In single grave lot sections there can be no choice of location, as these lots must be filled in regular order, nor can any such lots be reserved or sold for future use.

14.200 Charges for Sites of Burial

- a. The charges for sites for the right of burial and the charges for opening and closing cremation graves shall be in such amount as determined from time to time by the city council and shall be on file in the office of the city auditor in the city fee schedule.
- b. The charges to open and close graves shall be determined annually based upon the provision of subsection (c) of this section.
- c. The city may advertise for bids, on an annual basis, for all excavation work required pursuant to this section. The successful bidder may be required to deposit with the city auditor a surety bond in the amount based upon the bid received and accepted. Such bond must be:
 1. With good and sufficient surety;
 2. By a surety company authorized to transact business in the state;
 3. Satisfactory to the city council in form and substance; and
 4. Conditioned, among other things, upon the accepted bidder's compliance with this chapter and all other applicable ordinances of the city and to secure and hold the city and its officers harmless against any and all claims, judgments or other costs arising from the excavation and other work required.

14.210 Same – Right of Burial

- a. Burial sites are conveyed by “right of burial” form furnished the purchaser, his family and heirs, granting a right forever for the purpose of burying the human dead only, subject to the rules and regulations that are now in force or may be adopted by the city but exempt from taxation and liability for debt.
- b. No “right of burial” will be issued until a lot is fully paid for, and if interment is permitted before such time, the city retains the right to refuse future interments or any improvements until the balance due on the lot is fully paid, and in case of persistent default, to remove and body already interred to the single grave section.
- c. A “right of burial” from the city and its record on the books of the city kept under the direction of the city auditor is the only evidence of title of the proprietor recognized by the city; therefore, no lot shall be subdivided or transferred by deed or otherwise; and in the event of any subdivision or transfer or use of the property contrary to any of the provisions of the right of burial, the whole thereof shall revert to the city.

14.220 Repurchase of Lots by City

The city may, by mutual agreement with any site owner, repurchase any unused site from owner or authorized person at a reasonable price determined by the city council.

14.230 Recording Change of Ownership

On the death of an owner or part-owner of a site, the heirs or designees of the deceased, if required, shall file in the office of the city auditor satisfactory proof of their heirship for the purpose of establishing the new ownership on the books of the city.

14.240 Payments for Services Payable in Advance

All payments for charges for all services are payable in advance, except as otherwise provided.

14.250 Disinterment Charge

The charge for disinterring any body shall be determined by the city council.

14.260 Undertakers to Assume Liability for Certain Charges

In all instances where a funeral director arranges for lots or interments, the funeral director shall assume the liability for payment to the city of the cost of the lots or interments.

14.270 Reports; Disposition of Fees Collected; Accounting Procedures

At the end of each year the city auditor shall make and file with the city council a report in writing, showing an account of all fees collected by her during the preceding month. All accounting procedures shall be maintained in conformity with generally accepted accounting principles applicable to governmental entities, under the direction of the city auditor.

14.280 Endangered Grave Sites

Notwithstanding any other provisions of this Code, the city may move graves or cremate the bodies in any graves which are located in the city and maintained by the city when the grave sites are in imminent danger of destruction by natural elements. The city council shall, to the extent possible, give personal notice to a relative of a deceased person whose grave is to be moved or whose body is to be cremated, if the identity of that person and the identity of the relative are known. The city council shall provide at least thirty days prior notice in a legal newspaper of the city council's intended action to be taken pursuant to this section.

CHAPTER FIFTEEN
PERSONNEL POLICIES

ARTICLE 1 – Personnel Policies and Procedures

15.0101 Adoption of Policies

CHAPTER FIFTEEN
PERSONNEL POLICIES

ARTICLE 1 – Personnel Policies and Procedures

15.0101 Adoption of Policies

The personnel policies and procedures of the City shall be as set out in the City Policy Manual and any future amendments to that manual, a copy of which is on file with the city auditor. Those policies are hereby adopted and made a part of this chapter by reference.

CERTIFICATE

STATE OF NORTH DAKOTA)

) ss

COUNTY OF STARK)

The undersigned city auditor of the City of Gladstone, hereby certifies to be the City Auditor of the City of Gladstone, and as such is the custodian of the Ordinance Book of the City;

It is further certified that the foregoing is a true and accurate copy of the revised ordinances of 2020 duly enacted by the governing body of the City of Gladstone, the first reading being had at the meeting on December 2, 2019 and the second reading and final passage had at the meeting on January 6, 2020 and passed on a roll call vote as shown in the records kept of said meeting.

Dated this _____ day of January, 2020.

City Auditor
City of Gladstone, North Dakota.