

CHAPTER NINE

TRAFFIC

ARTICLE 1 - Definitions

9.0101 Definitions

ARTICLE 2 - Traffic Administration

9.0201 Duty of Police Department
9.0202 Records of Traffic Violations
9.0203 Police Department to Investigate Accidents

ARTICLE 3 - Enforcement and Obedience to Traffic Regulations

9.0301 Authority of Police and Fire Department Officials
9.0302 Obedience to Traffic Ordinances
9.0303 Obedience to Police Officers or Firefighters
9.0304 Certain Non-motorized Traffic to Obey Traffic Regulations
9.0305 Use of Coasters, Roller Skates and Similar Devices Restricted-REMOVED
9.0306 Public Employees to Obey Traffic Regulations
9.0307 Emergency Vehicles
9.0308 Operation of Vehicles on Approach of Authorized Emergency Vehicles - Penalty
9.0309 Written Report of Accident

ARTICLE 4 - Traffic Control Devices

9.0401 Authority to Install
9.0402 Specifications for
9.0403 Obedience to Traffic Control Devices
9.0404 Unauthorized Signs
9.0405 Interference with Official Traffic Control Device or Sign
9.0406 Designation of Walks, Lanes, Etc.

ARTICLE 5 - Speed Regulations and Care Required

9.0501 Basic Rules - Penalty for Violation
9.0502 Speed Limitations
9.0503 When Local Authorities May or Shall Alter Maximum Speed - Limits - Signs Posted
9.0504 Speed Limitations Inapplicable to Whom - Liability of Exempt Driver for Reckless Driving
9.0505 Minimum Speed Limits
9.0506 Regulations of Speed by Traffic Signals
9.0507 Exhibition Driving and Drag Racing - Definitions - Penalty
9.0508 Radar Evidence in Speed Violations
9.0509 Care Required in Operating Vehicle

ARTICLE 6 - Turning Movements

9.0601 Required Position and Method of Turning
9.0602 Vehicle Turning Left
9.0603 Limitations on Turning Around
9.0604 Turning Movements and Required Signals
9.0605 Signals by Hand and Arm or Signal Lamps
9.0606 Methods of Giving Hand and Arm Signals

ARTICLE 7 - Special Stops

- 9.0701 Authority to Designate Through Streets
- 9.0702 Through Streets Designated
- 9.0703 Signs
- 9.0704 Stop Signs and Yield Signs
- 9.0705 Emerging from Alley or Driveway
- 9.0706 Stop When Traffic Obstructed
- 9.0707 Obedience to Signal Indicating Approach of Train

ARTICLE 8 - Operators

- 9.0801 Operators - Who Prohibited

ARTICLE 9 - Miscellaneous Driving Rules

- 9.0901 When Traffic Obstructed
- 9.0902 Driving Through Funeral or Other Procession
- 9.0903 Drivers in a Procession
- 9.0904 Funeral Processions to be Identified
- 9.0905 When Permits Required for Parades and Processions-REMOVED
- 9.0906 Drive on Right Side of Roadway - Exceptions
- 9.0907 Passing Vehicles Proceeding in Opposite Direction
- 9.0908 Overtaking a Vehicle on the Left
- 9.0909 When Overtaking on the Right is Permitted
- 9.0910 Limitations on Overtaking on the Left
- 9.0911 Further Limitations on Driving on Left of Center of Roadway
- 9.0912 No-Passing Zones
- 9.0913 Driving on Roadways Laned for Traffic
- 9.0914 Following Too Closely
- 9.0915 Driving on Divided Highways
- 9.0916 Restricted Access
- 9.0917 Restrictions on Use of Controlled-Access Roadway
- 9.0918 Vehicle Entering Roadway
- 9.0919 Vehicle Approaching or Entering Intersection
- 9.0920 Overtaking and Passing School bus
- 9.0921 Unattended Motor Vehicle
- 9.0922 Limitations on Backing
- 9.0923 Obstruction to Driver's View or Driving Mechanism
- 9.0924 Opening and Closing Vehicle Doors
- 9.0925 Coasting Prohibited
- 9.0926 Following Fire Apparatus Prohibited
- 9.0927 Crossing Fire Hose
- 9.0928 Garbage, Glass, Etc. on Highways Prohibited
- 9.0929 Driving Through Safety Zone Prohibited
- 9.0930 Moving Heavy Equipment at Railroad Grade Crossings
- 9.0931 Open Container Law - Penalty
- 9.0932 Permitting Unauthorized Minor to Drive
- 9.0933 Permitting Unauthorized Person to Drive
- 9.0934 Jake Brakes
- 9.0935 Flooded Streets

ARTICLE 10 - Pedestrians' Rights and Duties

- 9.1001 Pedestrian Obedience to Traffic Control Devices and Traffic Regulations
- 9.1002 Pedestrians' Right-of-Way in Crosswalks

- 9.1003 Crossing at Other than Crosswalks
- 9.1004 Drivers to Exercise Due Care
- 9.1005 Pedestrians to Use Right Half of Crosswalks
- 9.1006 Pedestrians on Roadways
- 9.1007 Pedestrians' Right-of-Way on Sidewalks
- 9.1008 Pedestrians Yield to Authorized Emergency Vehicles
- 9.1009 Blind Pedestrians' Right-of-Way
- 9.1010 Pedestrians Under Influence of Alcohol or Drugs
- 9.1011 Bridge and Railroad Signs
- 9.1012 Pedestrians Soliciting Rides or Business

ARTICLE 11 - Regulations for Motorcycles

- 9.1101 Traffic Laws Apply to Persons Operating Motorcycles or Motorized Bicycles
- 9.1102 Riding on Motorcycles
- 9.1103 Operating Motorcycles on Roadways Laned for Traffic
- 9.1104 Clinging to Other Vehicles
- 9.1105 Footrests
- 9.1106 Equipment for Motorcycle Riders
- 9.1107 Other Applicable Law

ARTICLE 12 - Regulations for Bicycles

REMOVED

ARTICLE 13 - Parking

- 9.1301 Angle Parking-REMOVED
- 9.1302 Angle Parking – Where-REMOVED
- 9.1303 Close to Curb
- 9.1304 Method of Parking – Penalty
- 9.1305 Semi/Trailer Parking in Streets

ARTICLE 14 - Stopping, Standing or Parking Prohibited in Specific Places

- 9.1401 Parking Prohibited - Times
- 9.1402 Stopping, Standing or Parking Outside of Business or Residence Districts
- 9.1403 Officers Authorized to Remove Illegally Stopped Vehicles
- 9.1404 Stopping, Standing or Parking Prohibited in Specified Places
- 9.1405 Additional Parking Regulations
- 9.1406 Stopping - Parking - Certain Purposes Prohibited
- 9.1407 Stopping - Parking - Congested - Hazardous Places
- 9.1408 Stopping - Parking - In Alleys
- 9.1409 Parking Adjacent to Schools
- 9.1410 Stopping - Parking - Over 48 Hours
- 9.1411 Parking Privileges for Mobility-Impaired - Certificate - Revocation

ARTICLE 15 - Reserved Parking Areas

- 9.1501 Reserved Parking Areas

ARTICLE 16 - Time Limit Parking Zones

REMOVED

ARTICLE 17 - Equipment of Vehicles

- 9.1701 Windshield - Must be Unobstructed and Equipped with Wipers - Tinted Windows
- 9.1702 Child Restraint Devices - Evidence
- 9.1703 Use of Safety Belts - Enforcement
- 9.1704 Drawbar or Connection Between Vehicles - Precautions Required
- 9.1705 Modification of Motor Vehicle
- 9.1706 Scope and Effect of Equipment Requirements - Penalty

ARTICLE 18 - Motorcycle Equipment

- 9.1801 Purpose
- 9.1802 Manufacturer's or Distributor's Certification
- 9.1803 Frame-Chassis Requirements
- 9.1804 Brakes
- 9.1805 Brakes on Motor-Driven Cycles
- 9.1806 Tires, Wheels and Rims
- 9.1807 Steering and Suspension Systems
- 9.1808 Fuel Systems
- 9.1809 Exhaust Systems - Prevention of Noise
- 9.1810 Mirrors
- 9.1811 Fenders
- 9.1812 Seat or Saddle
- 9.1813 Chain Guard
- 9.1814 Vehicle Stand
- 9.1815 Glazing
- 9.1816 Horn
- 9.1817 Speedometer and Odometer
- 9.1818 Lighting Equipment
- 9.1819 Lighting Equipment on Motor-Driven Cycles
- 9.1820 Passenger Seat
- 9.1821 Footrests
- 9.1822 Highway Bars
- 9.1823 Equipment Approval

ARTICLE 19 - Lighted Lamps Required

- 9.1901 When Lighted Lamps are Required

ARTICLE 20 - Regulating the Kinds and Classes of Traffic on Certain Roads

- 9.2001 Load Restrictions Upon Vehicles Using Certain Roadways
- 9.2002 Commercial Vehicles Prohibited from Using Certain Streets
- 9.2003 Size Restrictions Upon Vehicles Using Certain Highways
- 9.2004 Restrictions Upon Use of Streets by Certain Vehicles

ARTICLE 21 - Criminal Traffic Violations

- 9.2101 Persons Under the Influence of Intoxicating Liquor or Narcotic Drugs Not to Operate Vehicle - Penalty
- 9.2102 Prior Offenses
- 9.2103 Reckless Driving - Penalty
- 9.2104 Accidents Involving Damage to Vehicle - Penalty
- 9.2105 Duty Upon Striking Unattended Vehicle - Penalty
- 9.2106 Duty Upon Striking Fixtures Upon a Highway

- 9.2107 Penalty for Driving While License Suspended or Revoked - Impoundment of Vehicle Number Plates - Authority of City
- 9.2108 Operation of Snowmobiles
- 9.2109 Rules for Operation of Snowmobiles
- 9.2110 Operation of Motor Vehicle, Tractor or Other Vehicle Prohibited on Flood Protective Works - Exception - Penalty
- 9.2111 Driving Without a License
- 9.2112 License to be Carried and Exhibited on Demand
- 9.2113 Penalty

ARTICLE 22 - Disposition of Traffic Offenses

- 9.2201 Halting Person for Violating Traffic Regulations - Duty of Officer Halting
- 9.2202 Hearing - Time - Promise of Defendant to Appear - Failure to Appear - Penalty
- 9.2203 Offenses Under Which Person Halted May Not be Entitled to Release Upon Promise to Appear
- 9.2204 Traffic Violations Noncriminal - Exceptions - Procedures
- 9.2205 Administrative Hearing - Procedures - Appeals - Stay Orders
- 9.2206 Failure to Appear, Pay Statutory Fee, Post Bond - Procedure - Penalty
- 9.2207 Offenses Excepted
- 9.2208 Amount of Statutory Fees
- 9.2209 "Nonmoving Violation" Defined
- 9.2210 "Moving Violation" Defined
- 9.2211 General Penalty for Violation of Chapter
- 9.2212 Notification of Parents or Guardians of Juvenile Traffic Offenders

ARTICLE 23 - Sections not Adopted

ARTICLE 24 - Filing of Ordinance

ARTICLE 25 - Adoption of Amendments by Reference

ARTICLE 26 - Severability Clause

ARTICLE 27 - Penalties

CHAPTER NINE

TRAFFIC

ARTICLE 1 – Definitions

9.0101 Definitions

Words and phrases used in this chapter shall have the meaning and be defined as provided in Title 39 of the North Dakota Century Code, and North Dakota Century Code section 39-01-01 and all subsequent amendments are hereby incorporated by reference in this ordinance.

ARTICLE 2 – Traffic Administration

9.0201 Duty of Police Department

It shall be the duty of the police department to enforce the street traffic regulations of the City and all of the state vehicle laws, to make arrests for traffic violations, to investigate accidents and to cooperate with other officers of the City in the administration of the traffic laws and in developing ways to improve traffic conditions and carry out the traffic ordinances of the City.

9.0202 Records of Traffic Violations

1. The police department shall keep a record of all violations of the traffic ordinances of the City or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such record shall be so maintained as to show all types of violations and the total of each. Each record shall accumulate during at least a five-year period and from that time on the record shall be maintained complete for at least the most recent five-year period.
2. All forms for records of violations and notices of violations shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of such form.
3. All such records and reports shall be public record.

9.0203 Police Department to Investigate Accidents

It shall be the duty of the police department to investigate traffic accidents and to arrest and assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.

Every law enforcement officer, who in the regular course of duty investigates a motor vehicle accident required to be reported as provided in Section 9.0309, either at the time and at the scene of the accident or thereafter by interviewing the participants or witnesses, shall make and forward promptly a written report of such accident to the director of the North Dakota Department of Transportation.

ARTICLE 3 – Enforcement and Obedience to Traffic Regulations

9.0301 Authority of Police and Fire Department Officials

1. It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws of this City and all of the state vehicle laws.

2. Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.
3. Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic.

9.0302 Obedience to Traffic Ordinances

It shall be unlawful for any person to do any act prohibited by this Chapter or fail to perform any act required by this Chapter, and upon conviction of a violation of any of the provisions of this Chapter every person shall be punished as provided in Article 27 of this Chapter.

9.0303 Obedience to Police Officers or Firefighters

No person shall willfully refuse to comply with any lawful order or direction of any police officer or firefighter invested by law with authority to direct, control, or regulation traffic.

9.0304 Certain Non-motorized Traffic to Obey Traffic Regulations

1. Every person propelling any pushcart upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this ordinance and by the rules of the road portion of the state vehicle code, except those provisions which by their very nature can have no application.
2. Every person riding a bicycle or animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this ordinance, except those provisions of this ordinance which by their very nature can have no application.

9.0305 Use of Coasters, Roller Skates and Similar Devices Restricted

REMOVED

9.0306 Public Employees to Obey Traffic Regulations

The provisions of this ordinance shall apply to the drivers of all vehicles owned or operated by the United States, this state, or any county, city, township, school district or any other political subdivision, subject to such specific exceptions as are set forth in this ordinance or in state law.

9.0307 Emergency Vehicles

The provisions of NDCC sections 39-10-03, 39-10-03.1, and 39-10-03.2 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Authorized emergency vehicles. **Class A** authorized emergency vehicle shall mean:
 - a. Vehicles of a governmentally owned fire department;
 - b. Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title pertaining to all motor vehicles or by a salaried employee of any municipal police department within the municipality or by any sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation

and the director's authorized agents who have successfully completed training in the operation of Class A authorized emergency vehicles;

- c. Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation;
 - d. Ambulances;
 - e. Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the North Dakota Game and Fish Department;
 - f. Vehicles owned or leased by the United States and used for law enforcement purposes;
 - g. Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency;
 - h. Vehicles operated by or under the control of the director of the North Dakota Parks and Recreation Department;
 - i. Vehicles operated or under the control of a licensed railroad police officer and used for law enforcement purposes;
 - j. Vehicles operated by or under the control of the North Dakota State Forester. (Source: North Dakota Century Code section 39-01-01)
2. The driver of a Class A authorized emergency vehicle may:
- a. Park or stand, irrespective of the provisions of this chapter;
 - b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - c. Exceed the speed limit so long as he does not endanger life or property;
 - d. Disregard regulations governing directions of movement or turning in specified directions.
3. The exceptions herein granted to a Class A authorized emergency vehicle shall apply only:
- a. When the authorized emergency vehicle is in pursuit of or apprehension of a violator or a suspected violator requiring the use of these exemptions;
 - b. When the Class A authorized emergency vehicle is being operated in response to a reported emergency involving a possible personal injury, death, or damage to property, and when giving adequate warning by use of a flashing red or combination red and white lights that are visible under normal atmospheric conditions for at least five hundred feet (152.4 meters) and if appropriate, giving audible signal by siren or air horn. A law enforcement vehicle that is otherwise a Class A authorized emergency vehicle may display a flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision;

- c. In any instance when the head of the law enforcement agency deems advisable within the area of that person's jurisdiction for the protection of person and property and when giving audible signal by siren or when giving adequate warning by use of a flashing red or combination red and white lights which are visible under normal atmospheric conditions for at least five hundred feet (152.4 meters). A law enforcement vehicle that is otherwise a Class A authorized emergency vehicle may display a flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision.
- 4. An emergency vehicle may not display or permit to be displayed any red lamp except when operated on official business.
- 5. Any law enforcement officer as provided in paragraph 2 of subdivision a of subsection 2 of Section 39-01-01 of the North Dakota Century Code having stopped another vehicle along a highway, and while still involved in that incident, or any other such activity, may use amber lights, visible under normal atmospheric conditions for at least five hundred feet (152.4 meters), for the purpose of maintaining traffic flow.
- 6. **Class B** authorized emergency vehicles shall mean wreckers and such other emergency vehicles as are authorized by local authorities. (Source: North Dakota Century Code section 39-01-01)
- 7. The driver of Class B authorized emergency vehicles may:
 - a. Park or stand, irrespective of the provisions of this chapter;
 - b. Exceed the speed limit so long as he does not endanger life or property during the time of a local or national disaster;
 - c. Disregard regulations governing direction of movement or turning in specified directions.
- 8. The exceptions herein granted to a Class B authorize emergency vehicle shall apply only when the authorized emergency vehicle is displaying an amber light visible under normal atmospheric conditions for a distance of five hundred feet (152.4 meters) in any direction, and
 - a. When it is necessary for the authorized emergency vehicle to use these exemptions for the immediate protection of life or property;
 - b. When an authorized emergency vehicle is stopped on a highway for the purpose of performing a duty as required of the driver; or
 - c. When traveling at a speed slower than the normal flow of traffic. (Source: North Dakota Century Code section 39-10-03.1)
- 9. **Class C** authorized emergency vehicles means:
 - a. Vehicles authorized by the state division of homeland security or local division of emergency management organizations;
 - b. Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
 - c. Vehicles other than ambulance, used by emergency medical services personnel. (Source: North Dakota Century Code section 39-01-01)

10. **Class C** authorized emergency vehicles. All Class B specifications apply to Class C authorized emergency vehicles except that a rotating blue flashing light shall be displayed in place of an amber light as provided in section 39-10-03.1 of the North Dakota Century Code. With respect to vehicles used by state and local disaster emergency services personnel, the division of homeland security is responsible for adopting rules for the use of flashing blue lights in accordance with chapter 28-32 of the North Dakota Century Code. (Source: North Dakota Century Code section 39-10-03.2)

9.0308 Operation of Vehicles on Approach of Authorized Emergency Vehicles - Penalty

The provisions of NDCC section 39-10-26 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Upon the immediate approach of an authorized emergency vehicle displaying a visible flashing, revolving, or rotating blue, white, or red light, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb or the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
2. Whenever an emergency vehicle is parked or stopped at the scene of an emergency and is displaying a flashing, revolving, or rotating blue, white, or red light, approaching traffic shall move to the right-hand edge or curb of the roadway and shall stop, but once having stopped, traffic may proceed past the scene at its own risk when the roadway is clear, except when otherwise directed by a police officer.
3. This section shall not operate to relieve the driver of any authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highways.
4. Any individual who violates subsection 2 and causes an accident with an authorized emergency vehicle while the authorized emergency vehicle is displaying a visible flashing, revolving, or rotating amber, blue, or red light is guilty of an infraction.

9.0309 Written Report of Accident

1. Immediate notice of accident. The driver of a vehicle involved in an accident resulting in injury to or death of any person or at least one thousand dollars, shall immediately give notice of the accident to the local police department if the accident occurs within the City. The name of the motor vehicle insurance policy carrier and the policy number of the driver, or if the driver is not the owner of the vehicle, then the motor vehicle insurance policy carrier and the policy number of the owner of the vehicle, must be furnished to the law enforcement officer investigating the accident. If the driver does not have the required information concerning insurance to furnish to the investigating law enforcement officer, then within five (5) days of the accident the driver shall supply that information to the Driver's License Division in the form the division requires. (Source: North Dakota Century Code section 39-08-09)
2. Officer to report. Every law enforcement officer, who in the regular course of duty investigates a motor vehicle accident required to be reported as provided in subsection 1 either at the time and at the scene of the accident or thereafter by interviewing the participants, or witnesses, shall make and promptly forward to the director of the Department of Transportation a report of the accident in a format prescribed by the director. (Source: North Dakota Century Code section 39-08-10)

3.
 - a. An accident notice is not required from any person who is physically incapable of making the report during the period of such incapacity.
 - b. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall make or cause to be given the notice not given by the driver.
 - c. Whenever the driver is physically incapable of giving notice of an accident and such driver is not the owner of the vehicle, then the owner of the vehicle involved shall within five (5) days after learning of the accident give such notice and insurance information not given by the driver. (Source: North Dakota Century Code Section 39-08-11)
4. Garages to report. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in a reportable accident as provided in Section 9.0309 (1) or of being struck by any bullet, shall report or cause a report to be made to a police officer within twenty-four (24) hours after such motor vehicle is received, and before any repairs are made to such vehicle, giving the registration number and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff or highway patrolman bearing information to show that the accident in which the vehicle was involved had been investigated. The police officer investigating any reportable accident shall attach a sticker to the window of any damaged vehicle showing that the accident in which such vehicle was involved has been investigated. If the vehicle does bear such a sticker the garage or repair shop need not make the report this section requires and may begin repairs immediately. After repairs have been made and before the vehicle is released, the sticker provided herein must be removed. (Source: North Dakota Century Code section 39-07-12)
5. Wrecker and towing services to report. The person in charge of the operator of any commercial towing or wrecker service which causes any motor vehicle to be transported to a private residence or business other than a garage or repair shop which show evidence of having been involved in a reportable accident as provided in section 39-08-09 or of being struck by any bullet shall report or cause a report to be made to a police officer within twenty-four hours after such motor vehicle is transported. The report must give the registration number, and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, along with the location such vehicle was transported to, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff, or highway patrolman, bearing information to show that the accident in which the vehicle was involved has been investigated. If the vehicle does bear such a sticker the towing or wrecker service need not make the report this section requires. (Source: North Dakota Century Code section 39-07-13)

ARTICLE 4 – Traffic Control Devices

9.0401 Authority to Install

The city engineer or any person authorized by the City governing body shall place and maintain traffic-control signs, signals, and devices when and as required under the traffic ordinances of this City to make effective the provisions of said ordinances, and may place and maintain such additional traffic-control devices as necessary to regulate traffic under the traffic ordinances of this City or under state law, or to guide or warn traffic.

9.0402 Specifications for

All traffic-control signs, signals, and devices shall conform to the specifications approved by the director of the North Dakota Department of Transportation pursuant to North Dakota Century Code section 39-13-06. All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the City. All traffic-control devices so erected and not inconsistent with the provisions of state law or this article shall be official traffic-control devices.

9.0403 Obedience to Traffic-Control Devices

The provisions of North Dakota Century Code section 39-10-04 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.
2. No provision of this chapter for which traffic-control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a state statute does not state that devices are required, such statute shall be effective even though no devices are erected or in place.
3. Whenever official traffic-control devices are placed in position approximately conforming to the requirements of state law, such devices shall be presumed to have been so placed by the official act or direction of lawful authority unless the contrary shall be established by competent evidence.
4. Any official traffic-control device placed pursuant to the provisions of state law and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of the chapter, unless the contrary shall be established by competent evidence.

9.0404 Unauthorized Signs

The provisions of North Dakota Century Code section 39-10-07.2 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No person may place, maintain, or display upon or in view of any highway, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device or any railroad sign or signal.
2. No person may place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.
3. This section may not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

4. Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice when located on highway right of way.
5. No person may place, maintain, or display upon or within the right of way of any highway any sign, post, pole, mailbox, or signal which has a red lamp or red reflector visible to traffic. The provisions of this subsection shall not apply to official traffic devices, lamps, or reflectors on motor vehicles or bicycles, or railroad signals or signs.
6. This section does not prohibit the use of portable battery-powered warning devices emitting a flashing red light placed upon a highway to alert oncoming traffic to a disabled or stopped motor vehicle.

9.0405 Interference with Official Traffic Control Device or Sign

The provision of North Dakota Century Code section 39-10-07.3 and all subsequent amendments are hereby incorporated by reference in this ordinance.

A person may not, without lawful authority, attempt to or in fact alter, deface, injure, knock down, remove, or interfere with the operation of any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

9.0406 Designation of Walks, Lanes, etc.

The city engineer or any person authorized by the City governing body shall:

1. Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where there is particular danger to pedestrians crossing the roadway, and at such other places as directed by the City governing body.
2. Establish safety zones of such kind and character and at such places as may be deemed necessary for the protection of pedestrians as determined by the City governing body.
3. Mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement or performing other lawful traffic movements.

ARTICLE 5 – Speed Regulations and Care Required

9.0501 Basic Rules – Penalty for Violation

The provisions of North Dakota Century Code section 39-09-01 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. Any person who shall drive a vehicle upon a highway or private or public property open to the public for the operation of motor vehicles without heed to the requirements or restrictions of this section has committed careless driving, and must be assessed a fee of thirty dollars (\$30.00).

Any person who, by reason of careless driving as herein defined, causes and inflicts injury upon the person of an operator of snow removal equipment engaged in snow removal operations or causes damage in excess of one thousand dollars to snow removal equipment engaged in snow removal is guilty of an infraction.

As used in this section, “snow removal equipment” means a vehicle that is operated by a person employed by or on behalf of an authority in charge of the maintenance of the highway to perform winter maintenance snow and ice removal, including plowing, hauling away, salting, and sanding.

9.0502 Speed Limitations

The provisions of North Dakota Century Code section 39-09-02 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Subject to the provisions of 9.0501 and except in those instances where a lower speed is specified in this chapter, it presumably shall be lawful for the driver of a vehicle to drive the same at a speed not exceeding:
 - a. Twenty (20) miles an hour when approaching within fifty (50) feet of a grade crossing of any steam, electric, or street railway when the driver’s view is obstructed. A driver’s view is deemed to be obstructed when at any time during the last two hundred (200) feet of the driver’s approach to such crossing, the driver does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred (400) feet in each direction from such crossing;
 - b. Twenty (20) miles an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours;
 - c. Twenty (20) miles an hour when approaching within fifty (50) feet and in traversing an intersection of highways when the driver’s view is obstructed. A driver’s view is deemed to be obstructed when at any time during the last fifty (50) feet of the driver’s approach to such intersection, the driver does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred (200) feet from such intersection;
 - d. Twenty (20) miles an hour when the driver’s view of the highway ahead is obstructed within a distance of one hundred (100) feet;
 - e. Twenty-five (25) miles an hour on any highway in a business district or in a residence district or in a public park, unless a different speed limit is designated and posted by local authorities; and
 - f. Fifty-five (55) miles an hour under other circumstances, unless otherwise permitted, restricted, or required by conditions.
 - g. Sixty-five (65) miles an hour on paved two-lane highways of posted for that speed, unless otherwise permitted, restricted, or required by conditions.
 - h. Seventy (70) miles an hour on paved and divided multilane highways, unless otherwise permitted, restricted, or required by conditions.
 - i. Seventy-five (75) miles an hour on access-controlled, paved and divided, multilane interstate highways, unless otherwise permitted, restricted, or required by conditions.

2. Except as provided by law, it is unlawful for any person to drive a vehicle upon a highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed by law or established pursuant to law.
3. In charging a violation of the provisions of this section, the complaint must specify the speed at which the defendant is alleged to have driven and the speed which this section prescribes is prima facie lawful at the time and place of the alleged offense.

9.0503 When Local Authorities May or Shall Alter Maximum Speed – Limits – Signs Posted

The provisions of North Dakota Century Code section 39-09-03 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Whenever the City, on the basis of an engineering and traffic investigation, determines that the maximum speed permitted under this title is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the City may determine and declare a reasonable and safe maximum limit thereon which:
 - a. Decreases the limit at intersections;
 - b. Increases the limit within an urban district but not to more than fifty-five (55) miles per hour; or
 - c. Decreases the limit outside an urban district.
2. The City shall determine by an engineering and traffic investigation the proper maximum speed for arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the minimum speed permitted under this chapter for an urban district.
3. Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.
4. Any alteration of maximum limits on state highways or extensions thereof in the City may not be effective until such alteration has been approved by the director of the North Dakota Department of Transportation.
5. Not more than six such alterations as hereinabove authorized shall be made per mile along a street or highway except in the case of reduced limits at intersections, and the difference between adjacent limits shall not be more than ten (10) miles per hour.

9.0504 Speed Limitations Inapplicable to Whom – Liability of Exempt Driver for Reckless Driving

The provisions of North Dakota Century Code section 39-09-06 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The speed limitations provided for in this article do not apply to Class A authorized emergency vehicles. The exceptions provided for in this section do not protect the driver of any such vehicle from the consequences or a reckless disregard of the safety of others.

9.0505 Minimum Speed Limits

The provisions of North Dakota Century Code section 39-09-09 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. An individual may not drive a motor vehicle at a reduced speed so as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.
2. If the director of the North Dakota Department of Transportation and the superintendent of the North Dakota Highway Patrol, acting jointly, or the City, determines on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the safe, normal, and reasonable movement of traffic, the director and superintendent or the City may determine and declare a minimum speed limit below which an individual may not drive a vehicle except when necessary for safe operation or in compliance with law, and that limit is effective when posted upon appropriate fixed or variable signs.

9.0506 Regulations of Speed by Traffic Signals

The City traffic engineer or authorized person may regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof.

9.0507 Exhibition Driving and Drag Racing – Definitions – Penalty

The provisions of North Dakota Century Code section 39-08-03.1 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No person may engage in exhibition driving of any vehicle on a highway, street, alley, sidewalk, or any public or private parking lot or area, nor may any person engage in a race, a speed competition, drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration. Any person who violates this section by engaging in an act defined by subdivision b of subsection 2 must be assessed a fee of fifty dollars. Any person who violates this section by engaging in an act defined by subdivision a or c of subsection 2 must be assessed a fee of one hundred dollars.
2. As used in this section:
 - a. “Drag race” means the operation of two or more vehicles from a point side-by-side by accelerating rapidly in a competitive attempt to cause one vehicle to out distance the other; or the operation of one or more vehicles over a common selected course from the same point to the same point for the purpose of comparing the relative speed or powers of acceleration of such vehicle or vehicles within a certain distance or time limit.
 - b. “Exhibition driving” means driving a vehicle in a manner which disturbs the peace by creating or causing unnecessary engine noise, tire squeal, skid, or slide upon acceleration or braking; or driving and executing or attempting one or a series of unnecessarily abrupt turns.
 - c. “Race” means the use of one or more vehicles in an attempt to outgain, outdistance, or to arrive at a given distance ahead of another vehicle or vehicles; or the use of one or more vehicles to willfully prevent another vehicle from passing the facing vehicle or vehicles, or to test the physical stamina or endurance of the persons driving the vehicles over a long distance driving route.
3. Nothing in this section shall be construed as prohibiting drag racing, exhibition driving, or similar events when carried out in an organized manner on a track or other privately

owned area specifically set aside and used solely for such purposes by drivers of motor vehicles, including snowmobiles.

9.0508 Radar Evidence in Speed Violations

The provisions of North Dakota Century Code section 39-03-15 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The speed of any motor vehicle may be checked by the use of radio microwaves or other electrical device. The results of such checks shall be accepted a prima facie evidence of the speed of such motor vehicle in any court or legal proceedings where the speed of the motor vehicle is at issue. The driver of any such motor vehicle may be arrested without a warrant under this section, provided the arresting officer is in uniform or displays the officer's badge of authority; provided that such officer has observed the record of the device, or has received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves or other electrical device.

9.0509 Care Required in Operating Vehicle

The provisions of North Dakota Century Code section 39-09-01.1 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Any person driving a vehicle upon a highway shall drive the vehicle in a careful and prudent manner, having due regard to the traffic, surface, and width of the highway and other conditions then existing, and shall give such warnings as are reasonable necessary for safe operation under the circumstances. No person may drive any vehicle upon a highway in a manner to endanger the life, limb, or property of any person.

ARTICLE 6 – Turning Movements

9.0601 Required Position and Method of Turning

The provisions of North Dakota Century Code Section 39-10-35 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

The driver of a vehicle intending to turn shall do so as follows:

1. Right turns. Both the approach for a right turn and a right turn must be made as close as practicable to the right-hand curb or edge of the roadway;
2. Left turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable, the left turn must be made to the left of the center of the intersection and so as to leave the intersection in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered;
3. The City may cause official traffic-control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles, and when such devices are so placed, no driver of a vehicle may turn other than as directed and required by such devices.

9.0602 Vehicle Turning Left

The provision of North Dakota Century Code section 39-10-23 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

9.0603 Limitations on Turning Around

The provision of North Dakota Century Code section 39-10-36 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The driver of any vehicle may not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safely and without interfering with other traffic.
2. No vehicle may be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred (500) feet.

9.0604 Turning Movements and Required Signals

The provision of North Dakota Century Code section 39-10-38 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No person may turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety without giving an appropriate signal in the manner hereinafter provided;
2. A signal of intention to turn right or left when required must be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning;
3. No person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal; and
4. The signals required on vehicles by subsection 2 of Section 9.0605 may not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

9.0605 Signals by Hand and Arm or Signal Lamps

The provisions of North Dakota Century Code section 39-10-39 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Any stop or turn signal when required herein must be given either by means of the hand and arm or by signal lamps, except as otherwise provided in subsection 2.
2. Any motor vehicle in use on a highway must be equipped with, and required signals must be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four (24) inches (60.96 centimeters), or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen (14) feet (4.27 meters). The latter measurement shall apply to any single vehicle and to any combination of vehicles.

9.0606 Methods of Giving Hand and Arm Signals

The provisions of North Dakota Century Code section 39-10-40 and all subsequent amendments are hereby incorporated by reference in this ordinance.

All signals herein required given by hand and arm must be given from the left side of the vehicle in the following manner and such signals must indicate as follows:

1. Left turn: hand and arm extended horizontally;
2. Right turn: hand and arm extended upward
3. Stop or decrease speed: hand and arm extended downward.

ARTICLE 7 – Special Stops

9.0701 Authority to Designate Through Streets

The provision of North Dakota Century Code section 39-07-03 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The director of the North Dakota Department of Transportation with reference to state highways, and the City governing body, with reference to highways under their jurisdiction, may, by proclamation, designate as through highways, any highway, street, or part thereof, and erect stop signs or yield signs at specified entrances thereto, or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to such intersection.

9.0702 Through Streets Designated

REMOVED

9.0703 Signs

All traffic control devices shall conform to state specifications.

9.0704 Stop Signs and Yield Signs

The provisions of North Dakota Century Code sections 39-10-24 and 30-10-44 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Preferential right-of-way may be indicated by stop signs or yield signs as authorized in Section 9.0701.
2. Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, or if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersection roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.
3. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop sign, or, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersection roadway

where the driver has a view of approaching traffic on the intersection roadway before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute and immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Provided, however, that if the driver is involved in a collision with a vehicle in the intersection or junction of roadways after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield the right-of-way.

4. Every stop sign and every yield sign must be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is not crosswalk, then as near as practicable to the nearest line of the intersecting roadway.
5. Except when directed to proceed by a police officer or traffic control sign, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway.
6. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at a point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

9.0705 Emerging from Alley or Driveway

The driver of a vehicle emerging from an alley, driveway, private road or building with a business or residential district shall stop such vehicle immediately prior to driving on to the sidewalk or on to the sidewalk area extending across such alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered when the driver has a view of approaching traffic thereon. The driver shall yield the right-of-way to any pedestrian as may be necessary to avoid collision and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway. (Source: North Dakota Century Code section 39-10-45)

9.0706 Stop When Traffic Obstructed

The provisions of North Dakota Century Code section 39-10-68 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No driver may enter any intersection or a marked crosswalk or drive on to a railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic-control signal indication to proceed.

9.0707 Obedience to Signal Indicating Approach of Train

The provision of North Dakota Century Code section 39-10-41 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty

(50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements apply when:

- a. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
 - b. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
 - c. A railroad train approaching within approximately one thousand three hundred twenty (1,320) feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or
 - d. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
2. No person may drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. No person may drive any vehicle past any human flagman at a railroad crossing until the flagman signals that the way is clear to proceed.

ARTICLE 8 – Operators

9.0801 Operators – Who Prohibited

The driving of motor vehicles, including automobiles, motor scooters, motor cycles, taxi cabs, trucks, or delivery trucks within the city limits of this City by any person who is not legally licensed to operated such vehicles under the laws of the State of North Dakota or by any person during the period his or her license is suspended, is prohibited.

ARTICLE 9 – Miscellaneous Driving Rules

9.0901 When Traffic Obstructed

No driver may enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed. (Source: North Dakota Century Code section 39-10-68)

9.0902 Driving Through Funeral or Other Procession

The driver of a vehicle may not drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this ordinance, except when authorized to do so by a law enforcement officer or when such vehicle is an emergency vehicle giving an audible or visible signal. (Source: North Dakota Century Code section 39-10-72 (4))

9.0903 Drivers in a Procession

Each driver in a funeral or other procession shall follow the vehicle ahead as close as is practicable and safe. (Source: North Dakota Century Code section 39-10-72 (3))

9.0904 Funeral Processions to be Identified

A funeral procession composed of a procession of vehicles shall be identified as such by headlights burning in daylight hours on all vehicles in the procession. (Source: North Dakota Century Code section 39-10-72 (3))

9.0905 When Permits Required for Parades and Processions

REMOVED

9.0906 Drive on right Side of Roadway – Exceptions

The provisions of North Dakota Century Code section 39-10-08 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Upon all roadways of sufficient width a vehicle must be driven upon the right half of the roadway, except as follows:
 - a. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
 - b. When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
 - c. Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or
2. Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing must be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn in an intersection or into a private road or driveway.
3. Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle may be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subdivision b of subsection 1 hereof. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road, or driveway.

9.0907 Passing Vehicles Proceeding in Opposite Direction

The provisions of North Dakota Century Code section 39-10-09 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

9.0908 Overtaking a Vehicle on the Left

The provisions of North Dakota Century Code section 39-10-11 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereinafter stated;

1. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
2. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

9.0909 When Overtaking on the Right is Permitted

The provisions of North Dakota Century Code section 39-10-12 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
 - a. When the vehicle overtaken is making or about to make a left turn; or
 - b. Upon a roadway with unobstructed pavement of sufficient width for two or more lanes of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.
2. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement may not be made by driving off the roadway.

9.0910 Limitations on Overtaking on the Left

The provisions of North Dakota Century Code section 39-10-13 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No vehicle may be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable, and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred feet of any approaching vehicle.

9.0911 Further Limitations on Driving on Left of Center of Roadway

The provisions of North Dakota Century Code section 39-10-14 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No vehicle shall be driven to the left side of the roadway under the following conditions:

- a. When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
 - b. When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing; or
 - c. When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.
3. The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in 9.0906 nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

9.0912 No-Passing Zones

The provisions of North Dakota Century Code section 39-10-15 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The director of the North Dakota Department of Transportation and the City governing body are hereby authorized to determine those portions of any highway under their respective jurisdiction where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.
2. Where signs or markings are in place to define a no-passing zone as set forth in subsection 1, no driver shall at any time drive on the left side of the roadway with such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.
3. This section does not apply under the conditions described in Section 9.0906 nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

9.0913 Driving on Roadways Laned for Traffic

The provisions of North Dakota Century Code section 39-10-17 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

1. A vehicle must be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.
2. Upon a roadway which is divided into three lanes and provides for two-way traffic, a vehicle may not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center line is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.
3. Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular

direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.

4. Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

9.0914 Following Too Closely

The provisions of North Dakota Century Code section 39-10-18 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The driver of a motor vehicle may not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.
2. The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or motor vehicle drawing another vehicle shall, whenever conditions permit leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this does not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.
3. Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles must be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision does not apply to funeral processions.

9.0915 Driving on Divided Highways

The provisions of North Dakota Century Code section 39-10-19 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated divided section so construed as to impede vehicular traffic, every vehicle must be driven only upon the right-hand roadway, unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicle may be driven over, across or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space at a crossover or intersection as established by public authority, unless such crossing is specifically prohibited and such prohibition is indicated by appropriate traffic-control devices.

9.0916 Restricted Access

The provisions of North Dakota Century Code Section 39-10-20 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No person may drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

9.0917 Restrictions on Use of Controlled-Access Roadway

The provisions of North Dakota Century Code section 39-10-21 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The director of the North Dakota Department of Transportation may by order, and the City governing body may by ordinance, with respect to any controlled-access roadway under their respective jurisdictions, prohibit the use of any such roadway by any class or kind of traffic which is found incompatible with the normal and safe movement of traffic.

The director of the North Dakota Department of Transportation or the City governing body, as the case may be, shall erect and maintain official signs on the controlled-access roadway on which such regulations are applicable and when so erected no person may disobey the restrictions stated on such signs.

9.0918 Vehicle Entering Roadway

The provisions of North Dakota Century Code section 39-10-25 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed.

9.0919 Vehicle Approaching or Entering Intersection

The provisions of North Dakota Century Code section 39-10-22 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. When two vehicles approach or enter an intersection not controlled by an official traffic-control device from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right. If the intersection is T-shaped and not controlled by an official traffic-control device, the driver of the vehicle on the terminating street shall yield to the vehicle on the continuing street or highway.
2. The right-of-way rule declared in this section is modified at through highways and otherwise as stated in this chapter.

9.0920 Overtaking and Passing School bus

The provisions of North Dakota Century Code section 39-10-46 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop the vehicle before reaching the school bus when there is in operation on the school bus the flashing red lights or the stop sign on the control arm specified in North Dakota Century Code section 39-21-18, and the driver may not proceed until the school bus resumes motion, the driver is signaled by the school bus driver to proceed, or the flashing red lights and the stop sign on the control arm are no longer actuated.
2. Every school bus shall bear upon the front and rear thereof plainly visible signs containing the word "SCHOOLBUS" in letters not less than eight (8) inches in height. When a school bus is being operated upon a highway for purposes other than the actual

transportation of children either to or from school or for a school sanctioned activity, all markings thereon indicating "SCHOOLBUS" must be covered or concealed.

3. The operator of a school bus equipped with amber caution lights may activate those lights at a distance of not less than three hundred (300) feet nor more than five hundred (500) feet from the point where school children are to be received or discharged from the bus.
4. Every school bus must be equipped with a stop sign on a control arm and red visual signals meeting the requirements of North Dakota Century Code section 39-21-18, which may only be actuated by the driver of the school bus whenever the vehicle is stopped on the highway to receive or discharge school children.
5. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.
6. Every school bus must bear on the rear of the bus a plainly visible sign containing the words "THIS SCHOOLBUS STOPS AT ALL RAILROAD CROSSINGS".

9.0921 Unattended Motor Vehicle

The provisions of North Dakota Century Code section 39-10-51 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No person driving or in charge of a motor vehicle may permit it to stand unattended without first stopping the engine, effectively setting the brake thereon, and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

9.0922 Limitations on Backing

The provisions of North Dakota Century Code section 39-10-52 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The driver of a vehicle may not back the same unless such movement can be made with safety and without interfering with other traffic.
2. The driver of a vehicle may not back the same upon any shoulder or roadway of any controlled-access highway.

9.0923 Obstruction to Driver's View or Driving Mechanism

The provisions of North Dakota Century Code section 39-10-54 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No person may drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.
2. No passenger in a vehicle may ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle.

9.0924 Opening and Closing Vehicle Doors

The provisions of North Dakota Century Code section 39-10-54.1 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No person may open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic, nor may any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

9.0925 Coasting Prohibited

The provisions of North Dakota Century Code section 39-10-56 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. The driver of any motor vehicle when traveling upon a down grade may not coast with the gears or transmission of such vehicle in neutral.
2. The driver of a truck or bus when traveling upon a down grade may not coast with the clutch disengaged.

9.0926 Following Fire Apparatus Prohibited

The provisions of North Dakota Century Code section 39-10-57 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The driver of any vehicle other than one on official business may not follow closer than five hundred (500) feet behind an emergency vehicle displaying the appropriate light for that vehicle in an emergency. A driver of a vehicle other than one on official business may not stop the vehicle within two hundred (200) feet of any emergency vehicle stopped in answer to a 911 emergency.

9.0927 Crossing Fire Hose

The provisions of North Dakota Century Code section 39-10-58 and all subsequent amendments are hereby incorporated by reference in this ordinance.

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

9.0928 Garbage, Glass, Etc. on Highways Prohibited

The provisions of North Dakota Century Code section 39-10-59 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. An individual may not deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, rubbish, or any other litter, In addition, an individual may not deposit upon any highway any other substance likely to injure any person, animal or vehicle.

2. An individual who deposits, or permits to be deposited, upon any highway any destructive or injurious material shall immediately remove or cause to be removed the same.
3. An individual removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle.

9.0929 Driving Through Safety Zone Prohibited

The provisions of North Dakota Century Code section 39-10-64 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No vehicle shall at any time be driven through or within a safety zone.

9.0930 Moving Heavy Equipment at Railroad Grade Crossings

The provisions of North Dakota Century Code section 39-10-67 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No person may operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half (1/2) inch per foot of the distance between any two adjacent axles or in any event of less than nine (9) inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
2. Before making any such crossing, the person operating, or moving any such vehicle or equipment shall first stop the same not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail or such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
3. No such crossing may be made when warning is given by automatic signal or crossing gates or flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing must be under the flagman's direction.

9.0931 Open Container Law - Penalty

The provisions of North Dakota Century Code section 39-08-18 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. A person may not drink or consume alcoholic beverages, as defined in Section 5-01-01 of the North Dakota Century Code, in or on any motor vehicle when the vehicle is upon a public highway or in an area used principally for public parking. A person may not have in that person's possession on that person's person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It is unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing alcoholic beverages which

have been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle is kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment must be deemed to be within the area occupied by the driver and passengers. This subsection does not prohibit the consumption or possession of alcoholic beverages in a house car, as defined in Section 9.0101, if the consumption or possession occurs in the area of the house car used as sleeping or living quarters and that area is separated from the driving compartment by a solid partition, door, curtain or some similar means of separation; however, consumption is not authorized while the house car is in motion. Any person violating the provisions of this section must be assessed a fee of fifty dollars (\$50.00); however the licensing authority shall not record the violation against person's driving record unless the person was the driver of the motor vehicle at the time that the violation occurred.

2. Subsection 1 does not apply to a public conveyance that has been commercially chartered for group use, any passenger for compensation in a for-hire motor vehicle, or a privately owned motor vehicle operated by a person in the course of that person's usual employment transporting passengers at the employer's direction. This subsection does not authorize possession or consumption of an alcoholic beverage by the operator of any motor vehicle described in this subsection while upon a public highway or in an area used principally for public parking.

9.0932 Permitting Unauthorized Minor to Drive

No person may cause or knowingly permit the person's child or ward under the age of eighteen (18) years to drive a motor vehicle upon any highway when such minor is not authorized under the laws of this state. (Source: North Dakota Century Code section 39-06-44)

9.0933 Permitting Unauthorized Person to Drive

No person may authorize or knowingly permit a motor vehicle owned by the person or under the person's control to be driven upon any highway by any person who is not authorized under the laws of this state. (Source: North Dakota Century Code section 39-06-45)

9.0934 Jake Brakes

Any operator of a motor vehicle may not use a compression release engine brake within 1 mile of the city limits of the City of Wishek. Any violation of this ordinance is subject to a \$50.00 fine.

9.0935 Flooded Streets

Restrictions Upon Vehicles Using Flooded Streets and Roadways –Penalty-No person may drive any vehicles upon any street or part of a street designated by a sign as closed due to water on the roadway. Violation of this section is an infraction punishable by a fine of up to one thousand dollars (\$1,000.00).

ARTICLE 10 - Pedestrians' Rights and Duties

9.1001 Pedestrian Obedience to Traffic Control Devices and Traffic Regulations

The provisions of North Dakota Century Code section 39-10-27 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. A pedestrian shall obey the instructions of any official traffic control device especially applicable to the pedestrian, unless otherwise directed by a police officer.
2. Pedestrians are subject to traffic-control and pedestrian-control signals as provided for in Section 9.0403.

9.1002 Pedestrians' Right-of-way in Crosswalks

The provisions of North Dakota Century Code section 39-10-28 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
2. No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.
3. Subsection 1 of this section does not apply under the conditions stated in subsection 2 of Section 9.1003.
4. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the highway, the driver of any other vehicle approaching from the rear may not overtake and pass such stopped vehicle.

9.1003 Crossing at other than Crosswalks

The provisions of North Dakota Century Code section 39-10-29 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.
2. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.
3. Between adjacent intersections at which traffic-control devices are in operation pedestrians may not cross at any place except in a marked crosswalk.
4. No pedestrian may cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

9.1004 Drivers to Exercise Due Care

The provisions of North Dakota Century Code section 39-10-30 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Notwithstanding other provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused, incapacitated, or intoxicated person.

9.1005 Pedestrians to Use Right Half of Crosswalks

The provisions of North Dakota Century Code section 39-10-32 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

9.1006 Pedestrians on Roadways

The provisions of North Dakota Century Code section 39-10-33 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.
2. Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.
3. Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.
4. Except as otherwise provided for in this chapter, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

9.1007 Pedestrians' Right-of-Way on Sidewalks

The provisions of North Dakota Century Code section 39-10-33.1 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The driver of a vehicle shall yield the right-of-way to any pedestrian on a sidewalk.

9.1008 Pedestrians Yield to Authorized Emergency Vehicles

The provisions of North Dakota Century Code section 39-10-33.2 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Upon the immediate approach of an authorized emergency vehicle making use of an audible signal by bell, siren, or exhaust whistle and displaying a visible flashing revolving, or rotating blue, white or red light, every pedestrian shall yield the right-of-way to the authorized emergency vehicle.
3. This section does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.

9.1009 Blind Pedestrians' Right-of-way

The provisions of North Dakota Century Code section 39-10-33.3 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The driver of a vehicle shall yield the right-of-way to any blind pedestrian carrying a clearly visible white cane or accompanied by an assistance dog.

9.1010 Pedestrians Under Influence of Alcohol or Drugs

The provisions of North Dakota Century Code section 39-10-33.4 and all subsequent amendments are hereby incorporated by reference in this ordinance.

A pedestrian who is under the influence of alcohol or any drug to a degree which renders the pedestrian a hazard may not walk or be upon a roadway.

9.1011 Bridge and Railroad Signals

The provisions of North Dakota Century Code section 39-10-33.5 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No pedestrian may pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

9.1012 Pedestrians Soliciting Rides or Business

The provisions of North Dakota Century Code section 39-10-34 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No person may stand in a roadway for the purpose of soliciting a ride.
2. No person may stand in a roadway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.
3. No person may stand on or in proximity to a street or highway for the purpose of soliciting watching of guarding of any vehicle while parked or about to be parked on a street or highway.

ARTICLE 11 – Regulations for Motorcycles

9.1101 Traffic Laws Apply to Persons Operating Motorcycles or Motorized Bicycles

The provisions of North Dakota Century Code section 39-10.2-01 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Every person operating a motorcycle or motorized bicycle is granted all of the rights and is subject to all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter and except as to those provisions of these ordinances which by their nature can have no application. For purposes of this chapter, the term “motorcycle” means motorcycles and motorized bicycles.

9.1102 Riding on Motorcycles

The provisions of North Dakota Century Code section 39-10.2-02 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator may not carry any other person nor may any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.
2. A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle.
3. No person may operate a motorcycle while carrying any package, bundle or other article which prevents the person from keeping both hands on the handlebars.
4. No operator may carry any person, nor may any person ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

9.1103 Operating Motorcycles on Roadways Laned for Traffic

The provisions of North Dakota Century Code section 39-10.2-03 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. All motorcycles are entitled to the full use of a lane and no motor vehicle may be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection does not apply to the operation of motorcycles two abreast in a single lane as authorized in subsection 4.
2. The operator of a motorcycle may not overtake and pass in the same lane occupied by the vehicle being overtaken.
3. No person may operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicle.
4. Motorcycles may not be operated more than two abreast in a single lane.
5. Subsections 2 and 3 do not apply to police officers in the performance of their official duties.

9.1104 Clinging to Other Vehicles

The provisions of North Dakota Century Code section 39-10.2-04 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No person riding upon a motorcycle may attach the person's self or the motorcycle to any other vehicle on a roadway.

9.1105 Footrests

The provisions of North Dakota Century Code section 39-10.2-05 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, must be equipped with footrests for such passenger.

9.1106 Equipment for Motorcycle Riders

The provisions of North Dakota Century Code section 39-10.2-06 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. No person under the age of eighteen years may operate or ride upon a motorcycle unless protective headgear, which complies with standards established by the North Dakota Department of Transportation, is being worn on the head of the operator and rider, except when participating in a lawful parade. If the operator of a motorcycle is required to wear protective headgear, any passenger must also wear protective headgear regardless of the age of the passenger.
2. This section does not apply to persons riding within an enclosed cab or on a golf cart.
3. No person may operate a motorcycle if a person under the age of eighteen (18) years is a passenger upon that motorcycle and is not wearing protective headgear as provided in subsection 1.

9.1107 Other Applicable Law

The provisions of North Dakota Century Code section 39-10.2-07 and all subsequent amendments are hereby incorporated by reference in this ordinance.

All of the provisions of this chapter pertaining to the disposition of traffic offenses apply to this article.

ARTICLE 12 – Regulations for Bicycles

REMOVED

ARTICLE 13 – Angle Parking

9.1301 Angle Parking

REMOVED

9.1302 Angle Parking – Where

REMOVED

9.1303 Close to Curb

No person may stand or park a vehicle in a street other than on the roadway and parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as otherwise provided in this article.

9.1304 Method of Parking - Penalty

A violation of the provisions of this article in respect to the method of parking is punishable by a fine of not to exceed twenty-five dollars (\$25.00).

9.1305 Semi/Trailer Parking in Streets

1. Definitions-A “Semi-tractor trailer” means a vehicle designed for being pulled by another vehicle and exceeding 14 feet in length. A “Semi-tractor” means a motor vehicle designed for pulling a semi-tractor trailer.
2. Parking Prohibited-It is unlawful for anyone to park or leave standing on any public street in the City of Wishek any semi-tractor or semi-tractor trailer for a period longer than one hour or that is reasonably necessary to load or unload its cargo or passengers, whichever is longer.
3. Towing-If such vehicle is left parked more than the time above stated, it may be ordered towed away by the Wishek Police Dept.
4. Exemptions
 - A. This ordinance shall not apply to vehicles being currently used to repair maintain the streets, boulevards, or alleys of the City of Wishek.
 - B. Motel Parking. This ordinance shall not apply to parking on 13th street South or Parking on First Avenue South between 13th street and 14th street, provided the operators of such vehicles are registered guests at the Wishek Inn.
 - C. A semi-tractor only may be parked on the street during extremely cold weather when it is necessary to plug it to an electric outlet in order to get it started; provided such vehicle must be moved during the times of snow removal. This exemption only applies to vehicles that are plugged in to an electric outlet so that they may be started at a later time, and does not apply to vehicles that are already running.
5. Penalty-Any person violating this shall on conviction thereof be punished by a fine not exceeding \$100.00, and shall also pay all reasonable towing charges incurred by the City of Wishek.

ARTICLE 14 - Stopping, Standing or Parking Prohibited in Specific Places

9.1401 Parking Prohibited - Times

When signs are erected giving notice thereof, it shall be unlawful for any person, firm or corporation to park or leave standing either attended or unattended, any motor vehicle in or upon the streets or alleys of the City.

9.1402 Stopping, Standing or Parking Outside of Business or Residence Districts

The provisions of North Dakota Century Code section 39-10-47 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Upon any highway outside of a business or residence district no person may stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway of not less than twelve (12) feet opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of two hundred feet in each direction upon such highway.
2. Sections 9.1402, 9.1404 and 9.1405 do not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

9.1403 Officers Authorized to Remove Illegally Stopped Vehicles

The provisions of North Dakota Century Code section 39-10-48 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Whenever any police officer finds a vehicle standing upon a highway in violation of any of the provisions of Section 9.1402, such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of such highway.
2. Whenever any police officer finds a vehicle unattended upon any highway, bridge or causeway, or in any tunnel where such vehicle constitute an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.
3. Any police officer is hereby authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:
 - a. A report has been made that such vehicle has been stolen or taken without consent of its owner;
 - b. The person or persons in charge of such vehicle are unable to provide for its custody or removal; or
 - c. When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.

9.1404 Stopping, Standing or Parking Prohibited in Specified Places

The provisions of North Dakota Century Code section 39-10-49 and all subsequent amendments are hereby incorporated by reference in this ordinance.

No person may stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk;
2. In front of a public or private driveway;
3. Within an intersection;
4. Within ten (10) feet of a fire hydrant;
5. On a crosswalk;
6. Within ten (10) feet of a crosswalk at an intersection;
7. Within fifteen (15) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
8. Between a safety zone and the adjacent curb or within fifteen (15) feet of points on the curb immediately opposite the ends of a safety zone, unless the North Dakota Department of Transportation or the City indicates a different length by signs or markings;
9. Within fifteen (15) feet of the nearest rail of a railroad crossing;

10. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted;
11. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
or
14. At any place where official signs prohibit stopping.

No person shall move a vehicle not lawfully under the person's control into any such prohibited area or away from a curb such distance as is unlawful.

9.1405 Additional Parking Regulations

The provisions of North Dakota Century Code section 39-10-50 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Except as otherwise provided in this ordinance, every vehicle stopped or parked upon a two-way roadway must be so stopped or parked with the right-hand wheels of such vehicle parallel to and within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.
2. Except where otherwise provided by ordinance, every vehicle stopped or parked upon a one-way roadway must be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within twelve (12) inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.
3. The City governing body may permit angle parking on any roadway, except that angle parking is not permitted on any federal-aid or state highway without first obtaining the written authorization of the director of the North Dakota Department of Transportation.
4. The North Dakota Department of Transportation with respect to highways under its jurisdiction may place official traffic-control devices prohibiting or restricting the stopping, standing or parking of vehicles on any highway where in its opinion such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. No person may stop, stand or park any vehicle in violation of the restrictions indicated by such devices.

9.1406 Stopping - Parking - Certain Purposes Prohibited

No person may park a vehicle upon any roadway for the principal purpose of:

1. Displaying such vehicle for sale;
2. Washing, greasing or repairing such vehicle except when repairing such vehicle is necessitated by an emergency.

9.1407 Stopping - Parking - Congested - Hazardous Places

The city engineer or other person designated by the City governing body is hereby authorized to determine and designate by proper signs, places in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

When official signs are erected at hazardous or congested places as authorized herein, no person may stop, stand or park a vehicle in any such designated place.

9.1408 Stopping - Parking - In Alleys

No person may park a vehicle within an alley, nor shall any person stop a commercial vehicle so as to leave available less than twelve (12) feet of the width thereof for free movement of vehicular traffic, nor shall any person stop in such a position as to block the driveway entrance to any abutting property.

9.1409 Parking Adjacent to Schools

1. The city traffic engineer or authorized person may erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in the traffic engineer's or other authorized person's opinion, interfere with traffic or create a hazardous situation.
2. When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person may park a vehicle in any such designated place.

9.1410 Stopping - Parking - Over 48 Hours

It shall be unlawful for anyone to park or leave standing on any public street or highway in the City any vehicle for a period longer than forty-eight (48) hours consecutively, provided this section shall not include any area where a shorter time is provided for parking.

9.1411 Parking Privileges for Mobility-Impaired - Certificate - Revocation

The provisions of North Dakota Century Code section 39-01-15 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Any mobility-impaired person who displays prominently upon an automobile parked by that person or under that person's direction and for that person's use, a distinguishing certificate or insignia for mobility-impaired persons issued by the North Dakota Department of Transportation is entitled to courtesy in the parking of the automobile. Provided, however, that the City governing body may, by ordinance, prohibit parking on any street or highway for the purpose of creating a fire lane, or to provide for the accommodation of heavy traffic during morning and afternoon rush hours, and the privileges extended to such impaired persons do not apply on streets or highways where and during such times as parking is prohibited.
2. A mobility-impaired person as used in this ordinance includes any person who uses portable oxygen; requires personal assistance or the use of crutches, a wheelchair, or a walker to walk two hundred feet without rest; is restricted by cardiac, pulmonary or vascular disease from walking two hundred feet without rest; has a forced expiratory volume of less than one liter for one second or an arterial oxygen tension of less than sixty millimeters of mercury on room air while at rest and is classified III or IV by standards for cardiac disease set by the American Heart Association; or has an orthopedic, neurological or other medical condition that makes it impossible for the person to walk two hundred feet without assistance or rest.

3. If a law enforcement officer finds that a mobility-impaired certificate or insignia is being improperly used, the officer may report to the director of the North Dakota Department of Transportation. Any person who is not mobility-impaired and who exercises the privileges granted a mobility-impaired person under subsection 1 shall be guilty of an infraction.
4. Whenever any public or private entity designates parking spaces for use by motor vehicles operated by mobility-impaired persons, those reserved spaces must be indicated by blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space. In addition to blue paint, the space reserved must be indicated by an official sign approved by the director of the North Dakota Department of Transportation. The City may enforce the provisions of this subsection in any parking lot or parking facility that is generally open to the public, whether publicly or privately owned.
5. A person may not stop, stand or park any vehicle in any designated parking space which is reserved for the mobility-impaired unless the vehicle displays a mobility-impaired identification certificate or insignia issued by the director of the North Dakota Department of Transportation. For a violation of this subsection, there will be a fee in the amount of one hundred dollars (\$100.00).

ARTICLE 15 - Reserved Parking Areas

9.1501 Reserved Parking Areas

No person, firm or corporation shall, when signs are erected giving notice thereof, park or leave standing, either attended or unattended, any motor vehicle on street areas which are reserved for the following temporary uses: loading and unloading, bus parking, guest parking, taxi parking, emergency parking, no parking, police or fire use.

The chief of police may establish from time to time areas for loading and unloading, bus parking, guest parking, taxi parking, emergency parking, no parking or police and fire use on such public streets in such places and in such number as the chief shall determine or as the governing body may specifically designate to be of greatest benefit and convenience to the public. These areas shall be designated by appropriate signs.

ARTICLE 16 - Time Limit Parking Zones

REMOVED

ARTICLE 17 - Equipment of Vehicles

9.1701 Windshield - Must be Unobstructed and Equipped with Wipers - Tinted Windows

1. Every motor vehicle must be equipped with a windshield. No person may drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings or side or rear windows which obstructs the driver's clear view of the highway or any intersection highway.

2. The windshield on every motor vehicle must be equipped with a device for cleaning rain, snow or other moisture from the windshield, which must be so constructed as to be controlled or operated by the driver of the vehicle.
3. Every windshield wiper upon a motor vehicle must be maintained in good working order.
4. A person may not operate a motor vehicle with any object or any material displayed, affixed or applied on the front windshield or on any side window where that material alters the color or reduces the light transmittance, or reduces the clear and unobstructed view through the windshield or window. This subsection does not apply to windows behind the driver or to tinted windows or windshields in compliance with the Federal Motor Vehicle Safety Standards.

9.1702 Child Restraint Devices - Evidence

1. If a child, under four years of age, is present in any motor vehicle, that motor vehicle must be equipped with at least one (1) child restraint system for each such child. However, a child under the age of seven who is at least fifty-seven inches tall and who weighs at least eight pounds is not required to use a child restraint system. The child restraint system must meet the standards adopted by the United States Department of Transportation for those systems (49 CFR 571.213). While the motor vehicle is in motion, each such child must be properly secured in the child restraint system in accordance with the manufacturer's instructions. A child weighing more than forty pounds may be restrained by a lap belt if the vehicle is not equipped with lap and shoulder belts or if all lap and shoulder belts are in use by other occupants. While the motor vehicle is moving, each child of seven through seventeen years of age who is in the motor vehicle must be in an approved child restraint system in accordance with the manufacturer's instructions or correctly buckled in a seatbelt. Use of child restraint systems and seatbelts is not required in motor vehicles that were not equipped with seatbelts when manufactured. If a child is being transported in an emergency situation, this ordinance does not apply.
2. Violation of this ordinance is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation. (Source: North Dakota Century Code section 39-21-41.2)

9.1703 Use of Safety Belts - Enforcement

Subject to the limitations of this ordinance and North Dakota Century Code section 39-21-41.5, a driver may not operate upon a highway a motor vehicle designed for carrying fewer than eleven passengers, which was originally manufactured with safety belts unless each front seat occupant is wearing a properly adjusted and fastened safety belt. This section does not apply to a child in a child restraint or seatbelt; to drivers of implements of husbandry; to operators of farm vehicles; to rural mail carriers while on duty delivering mail; to an occupant with a medical or physically disabling condition that prevents appropriate restraint in a safety belt, if a qualified physician states in a signed writing the nature of the condition and the reason restraint is inappropriate; or when all front seat safety belts are in use by other occupants. A physician who, in good faith, provides a statement that restraint would be inappropriate is not subject to civil liability. A violation for not wearing a safety belt under this section is not, in itself, evidence of negligence. The fact of a violation of this ordinance is not admissible in any proceeding other than one charging the violation.

A peace officer may not issue a citation for a violation of this section unless the officer lawfully stopped or detained the driver of the motor vehicle for another violation. (Source: North Dakota Century Code sections 39-21-41.4 and 39-21-41.5)

9.1704 Drawbar or Connection Between Vehicles - Precautions Required

The drawbar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, shall be of such design, strength and construction so as to prevent the unintentional uncoupling of the vehicles. (Source: North Dakota Century Code section 39-21-44.2)

9.1705 Modification of Motor Vehicle

Except as otherwise provided in this ordinance, a person may not operate upon a public highway a motor vehicle of a type required to be registered under the laws of this state with a weight of seven thousand (7,000) pounds or less with alterations or changes from the manufacturer's original design of the suspension, steering or braking system of the motor vehicle. The weight must be computed on the basis of the unmodified and unloaded weight of the motor vehicle, and without regard to any ballast that may be placed in the vehicle. As to bumpers, motor vehicle height and permitted modifications, the following requirements also apply:

1. The motor vehicle must be equipped with front and rear bumpers.
2. The maximum body height permitted for a motor vehicle is forty-two (42) inches. Measurement of body height is made from a level ground surface to the floor of the cargo area.
3. The maximum bumper height permitted is twenty-seven (27) inches. Measurement of bumper height is made from a level ground surface to the highest point on the bottom of the bumper.
4. The vehicle may be modified in accordance with the following:
 - a. Any modifying equipment must meet specialty equipment marketing association standards.
 - b. If tires placed on a motor vehicle have a diameter greater than that of the tires on the motor vehicle as manufactured, those tires must comply with Department of Transportation requirements.
 - c. The maximum outside diameter permitted for tires is forty-four (44) inches.
 - d. A horizontal drop bumper may be used to comply with the bumper height requirement of subsection 3. The horizontal bumper must:
 - i. Be at least three (3) inches in vertical width;
 - ii. Extend the entire horizontal body width; and
 - iii. Be horizontal, load bearing and attached to the vehicle frame to effectively transfer impact when engaged.
 - e. The maximum lift permitted in the suspension system is four (4) inches.
5. A person charged with violating this ordinance has the burden of proceeding to show that the modifications are permitted under this section.
6. Vehicles owned by law enforcement agencies, the military, firefighting agencies and ambulances may be modified without regard to this ordinance. (Source: North Dakota Century Code section 39-21-45.1)

9.1706 Scope and Effect of Equipment Requirements - Penalty

1. It is unlawful for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which the actor knows to be in such unsafe condition as to endanger any person, or which the actor knows does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this chapter, or which the actor knows is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this ordinance. Any person who, in violation of this ordinance, drives, or any owner who causes or knowingly permits to be driven upon a highway, any vehicle or combination of vehicles which that person knows is unsafe or improperly equipped is guilty of an infraction.
2. Nothing contained in this ordinance may be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.
3. The provisions of this ordinance with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, road rollers or farm tractors except as specifically made applicable.
4. The provisions of this ordinance with respect to equipment required on vehicles do not apply to motorcycles or motor-driven cycles, except as specifically made applicable.
5. The provisions of this ordinance do not apply to vehicles moved solely by human power, except as specifically made applicable. (Source: North Dakota Century Code section 39-21-46)

ARTICLE 18 - Motorcycle Equipment

9.1801 Purpose

The provisions of North Dakota Century Code chapter 39-27 and all subsequent amendments are hereby incorporated by reference in this ordinance.

It is the purpose of this article to establish performance and equipment requirements for the manufacture, sale and safe operation of a motorcycle upon public highways, and to furnish administrators with a guide for registration eligibility and continued conformity as related to motorcycles. (Source: North Dakota Century Code section 39-27-01)

9.1802 Manufacturer's or Distributor's Certification

1. The manufacturer or distributor shall provide a certification of the fact that a motorcycle or class of motorcycles is designed and manufactured for use upon public highways and complies with the performance and equipment requirements of this chapter, and the rules and regulations promulgated hereunder.
2. The certificate must be incorporated on the manufacturer's statement of origin (MSO) upon transfer of vehicle ownership. (Source: North Dakota Century Code section 39-27-02)

9.1803 Frame-Chassis Requirements

1. The motorcycle frame-chassis, including the suspension components and engine mountings, must be of substantial construction, capable of supporting the combined

weight of all vehicle components and riders for which the vehicle is designed, and withstand normal road shocks and operational stresses without constituting a hazard to the riders or other users of the highway.

2. The wheelbase may not be less than forty (40) inches. (Source: North Dakota Century Code section 39-27-03)

9.1804 Brakes

1. Every motorcycle must have either a split service brake system or two (2) independently actuated service brake systems in accordance with rules adopted by the director of the North Dakota Department of Transportation. Brakes must act on the front and rear wheels.
2. Every motorcycle must meet the requirements for brake system effectiveness, fade and partial systems as specified in rules adopted by the director of the North Dakota Department of Transportation.
3. All linkage, cables, pivots and bearings must be free of excess (high) friction, with the front wheel brake cable so located and secured as not to become pinched between fork and frame members when wheel is turned completely to the right or left.
4. Brake actuating devices must be in an accessible location, unencumbered by vehicle components, and so positioned that adequate leverage and safe operation is ensured. Service brake system controls and operation requirements must be in accordance with rules adopted by the director of the North Dakota Department of Transportation. A suitable mechanism shall be provided for the purpose of automatically returning the actuating devices to normal position upon release.
5. Motorcycle brakes must be capable of being adjusted automatically or manually with means provided to prevent unintentional adjustment.
6. Each three-wheel motorcycle must be equipped with a parking brake of a friction type with a solely mechanical means to retain engagement. (Source: North Dakota Century Code section 39-27-04)

9.1805 Brakes on Motor-Driven Cycles

The City may require an inspection of the brake on any motor-driven cycle and may disapprove any brake which is not so designed or constructed as to ensure reasonable and reliable performance in actual use. (Source: North Dakota Century Code section 39-27-04.1)

9.1806 Tires, Wheels and Rims

1. Motorcycle tires must be of pneumatic design with a minimum width of two and twenty-five hundredths ($2 \frac{25}{100}$) inches designed for highway use.
2. Tires on two-wheel motorcycles and the front tire on a three-wheel motorcycle must have a load capacity rating at least equal to their respective gross axle weight ratings (GAWR). Each tire on the rear axle of a three-wheel motorcycle must have a load capacity rating at least equal to one-half ($1/2$) the rear axle gross axle weight rating (GAWR).
3. Wheel rim diameters may not be less than ten (10) inches (25.4 centimeters) and shall otherwise comply with applicable state standards, as promulgated by the registrar of motor vehicles. Two-wheel motorcycles using low pressure tires are exempt from this

subsection, if the inflated height of the tire is twenty (20) inches or greater. (Source: North Dakota Century Code section 39-27-05)

9.1807 Steering and Suspension Systems

1. Motorcycle steering and suspension systems must be designed and engineered to provide the operator with the means of safely controlling vehicle direction under all maneuvers required for normal and safe operation.
2. The rear wheel of a two-wheel motorcycle must track behind a front wheel within one (1) inch with both wheels in a vertical plane when the vehicle is operating on a straight course. On a three-wheel motorcycle, the two wheels mounted on the rear axle must have a wheel track distance no less than thirty (30) inches and the mid-point of the rear wheel track distance shall be within one (1) inch of the front wheel track when the vehicle is proceeding on a straight course. The vehicle must be equipped with an adjustment feature that will provide proper wheel tracking.
3. The steering head must be provided with a bearing or similar device that will allow the steering shaft to turn freely in rotational motion only.
4. All motorcycles, except three-wheel motorcycles, must meet the following specifications in relationship to front wheel geometry:

Maximum Rake: 45 degrees - Trail: 14 inches positive

Minimum Rake: 20 degrees - Trail: 2 inches positive

Manufacturer's specifications must include the specific rake and trail for each motorcycle or class of motorcycles and the terms "rake" and "trail" must be defined by rules adopted by the director of the North Dakota Department of Transportation.

5. Handlebars must be of sturdy construction, adequate in size to provide proper leverage for steering and capable of withstanding a minimum force of one hundred (100) pounds applied to each handgrip in any direction. Handlebar grips may not be located above the shoulder height of the seated operator and must be capable of vertical adjustment. The handlebars must provide a minimum of eighteen (18) inches between grips after final assembly.
6. Handlebars must be equipped with handgrips consisting of a material and surface pattern to ensure firm, non-slip gripping for the driver.
7. Every motorcycle must be equipped with a suspension system and such suspension system must be applicable to at least the front wheel. The suspension system must be effective in reducing road shock and designed for the purpose of maximizing vehicle stability. (Source: North Dakota Century Code section 39-27-06)

9.1808 Fuel Systems

1. All fuel system components, including the tank, pump, tubing, hoses, clamps, etc. must be securely fastened to the motorcycle so as not to interfere with vehicle operation and be leak proof when the vehicle is in its normal operating attitude.
2. Fuel lines must be positioned in a manner to prevent their contact with the engine head, manifold, exhaust system or other high temperature surfaces or moving components. The fuel system must be adequately vented and provided with a fuel shutoff valve located

between the fuel supply and the engine. (Source: North Dakota Century Code section 39-27-07)

9.1809 Exhaust Systems - Prevention of Noise

Motorcycles must be equipped with an exhaust system incorporating a muffler or other mechanical device for the purpose of effectively reducing engine noise. Cutouts and bypasses in the exhaust system are prohibited. The system must be leak proof and all components must be securely attached to the vehicle and located so as not to interfere with the operation of the motorcycle. Shielding must be provided to prevent inadvertent contact with the exhaust system by the operator or passenger during normal operation. In addition, all motorcycles operating on streets and highways must meet the noise decibel limitations as established by the Environmental Protection Agency. No person may sell, offer for sale or install any noise suppressing system or device which will produce noise in excess of the maximum allowable decibel limitations of this section. (Source: North Dakota Century Code section 39-27-08)

9.1810 Mirrors

Every motorcycle must be equipped with at least one mirror of unit magnification, securely affixed to the handlebar and capable of adjustment within a range that will reflect an image that includes at least the horizon and the road surface to the rear of the motorcycle. Such mirror must consist of a minimum reflective surface of ten (10) square inches (64.52 square centimeters). All mirrors shall not contain sharp edges or projections capable of producing injury. (Source: North Dakota Century Code section 39-27-09)

9.1811 Fenders

Each wheel of a motorcycle must be equipped with fenders or otherwise covered by the body configuration. Fenders must be securely mounted and of sufficient size and strength to minimize water or other road surface substances from coming in contact with the vehicle riders, or throwing the road substances unreasonably to the rear of the vehicle. Fender design must be effective in reducing side spray. (Source: North Dakota Century Code section 39-27-10)

9.1812 Seat or Saddle

A seat or saddle securely attached to the vehicle must be provided for the use of the operator. The seat or saddle may not be less than twenty-five (25) inches (63.5 centimeters) above a level road surface when measured to the lowest point on top of the seat or saddle cushion with the operator seated in a driving position. The seat or saddle adjustment locking device must prevent relative movement of the seat from its selected and secured position under all normal vehicle operating conditions. (Source: North Dakota Century Code section 39-27-11)

9.1813 Chain Guard

Any drive chain on a motorcycle must be equipped with a chain guard or covering device to prevent chain or chain sprocket contact with any rider. (Source: North Dakota Century Code section 39-27-12)

9.1814 Vehicle Stand

All motorcycles designed with two wheels must be equipped with a retracting vehicle stand to permit the vehicle to remain in an upright stored position without outside assistance. The stand may be of a side or center type, and shall be of substantial construction to hold the vehicle to equipped. (Source: North Dakota Century Code section 39-27-13)

9.1815 Glazing

When equipped, all motorcycle windscreens and windshields must meet the following standards:

1. The glazing material must comply with the standards promulgated by rule of the director of the North Dakota Department of Transportation.
2. The metal support must be of a material which shall bend rather than fragment under impact.
3. Covering material, other than glazing, must be beaded at the edges to prevent fraying. (Source: North Dakota Century Code section 39-27-14)

9.1816 Horn

Every motorcycle must be equipped with an operative horn in good working order as described by Subsection 1 of Section 39-21-36 of the North Dakota Century Code. The horn shall operate from a control device located on the left handlebar. (Source: North Dakota Century Code section 39-27-15)

9.1817 Speedometer and Odometer

Every motorcycle must be equipped with a properly operating speedometer and odometer calibrated in miles (kilometers) per hour and miles (kilometers) respectively and must be fully illuminated when the headlamp is activated. (Source: North Dakota Century Code section 39-27-16)

9.1818 Lighting Equipment

1. A motorcycle must be equipped with lamps, reflective devices and associated equipment as required by and in compliance with standards adopted by the director of the North Dakota Department of Transportation.
2. A gearbox indicator light, if provided, must be located within the operator's field of vision.
3. A headlamp beam indicator light must be located within the operator's field of vision and illuminated automatically when the high beam of the headlamp is actuated.
4. A motorcycle must be equipped with at least one tail lamp in accordance with North Dakota Century Code section 39-21-04.
5. A motorcycle must be equipped with a stop lamp in accordance with subsection 1 of North Dakota Century Code section 39-21-19. (Source: North Dakota Century Code section 39-27-17)

9.1819 Lighting Equipment on Motor-Driven Cycles

The headlamp or headlamps upon every motor-driven cycle must be of the single-beam or multiple-beam type but in either event must comply with the requirements and limitations as follows:

1. Every headlamp or headlamps on a motor-driven cycle must be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred (100) feet when the motor-driven cycle is operated at any speed less than twenty-five (25) miles per hour and at a distance of not less than two hundred (200) feet when the motor-driven cycle is operated at a speed of twenty-five (25) or more miles (40.23 or more kilometers) per hour and at a distance of not less than three hundred (300) feet when the motor-driven cycle is operated at a speed of thirty-five (35) miles per hour.

2. In the event the motor-driven cycle is equipped with a multiple-beam headlamp or headlamps the upper beam may not exceed the limitations set forth in Subsection 1 of Section 39-21-20 of the North Dakota Century Code, and the lowermost beam shall meet the requirements applicable to the lowermost distribution of light as set forth in Subsection 2 of Section 39-21-20 of the North Dakota Century Code.
3. In the event the motor-driven cycle is equipped with a single-beam lamp or lamps the lamp or lamps must be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of twenty-five (25) feet ahead, projects higher than the level of the center of the lamp from which it comes. (Source: North Dakota Century Code section 39-27-17.1)

9.1820 Passenger Seat

Motorcycles designed to carry more than one person must be equipped with a securely mounted seat for each passenger located to the side or rear of the driver such that the passenger seat does not interfere with the driver's control or operation of the vehicle. In the case of a two-wheel vehicle, the passenger seat must be located on the longitudinal centerline of the motorcycle. (Source: North Dakota Century Code section 39-27-18)

9.1821 Footrests

Footrests must be provided for each designated seating position. Each footrest for a passenger must be so designated and constructed to support a static weight of two hundred fifty (250) pounds applied at the center of the foot pedal. Footrests must be so located to provide reasonable accessibility for the passenger's feet. Footrests must fold rearward or upward when not in use if the footrest protrudes beyond the width of the handlebars. (Source: North Dakota Century Code section 39-27-20)

9.1822 Highway Bars

If a motorcycle is so equipped, highway bars must have a maximum width of twenty-six (26) inches; shall be located less than fifteen (15) inches from the foot controls and may not interfere with the operation of the foot controls. (Source: North Dakota Century Code section 39-27-21)

9.1823 Equipment Approval

All motorcycle lighting devices, electrical systems, brake components, glazing materials and exhaust systems, incorporating a muffler or other mechanical exhaust device, required or optional, must be approved by the North Dakota Department of Transportation before they will be available for use within the state. (Source: North Dakota Century Code section 39-27-22)

ARTICLE 19 - Lighted Lamps Required

9.1901 When Lighted Lamps are Required

Subject to exceptions with respect to parked vehicles, every vehicle upon a highway within this state must display lighted lamps and illuminating devices as required in this article for different classes of vehicles as follows:

1. At any time from sunset to sunrise, and every farm tractor upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise;

2. At any time when it is raining, snowing, sleeting or hailing or during other adverse driving conditions and these conditions do not render a person or vehicle on the highway clearly discernible at a distance of one thousand (1000) feet ahead; or
3. At any other time when visibility is impaired by weather, smoke, fog or other conditions or when there is insufficient light to render a person or vehicle on the highway clearly discernible at a distance of one thousand (1000) feet ahead.

Stoplights, turn signals and other signaling devices must be lighted as prescribed for the use of such devices. (Source: North Dakota Century Code section 39-21-01)

ARTICLE 20 - Regulating the Kinds and Classes of Traffic on Certain Roads

9.2001 Load Restrictions Upon Vehicles Using Certain Roadways

When signs are erected giving notice thereof, no person may operate any vehicle with a gross weight in excess of the maximum indicated weight at any time upon any street or part of a street so designated.

9.2002 Commercial Vehicles Prohibited from Using Certain Streets

When signs are erected giving notice thereof, no person may operate any commercial vehicle exceeding the maximum indicated gross weight at any time upon any street or part of a street so designated except that such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise and then only by entering such street at the intersection nearest the designation of the vehicle and proceeding thereon no farther than the nearest intersection thereafter.

9.2003 Size Restrictions Upon Vehicles Using Certain Highways

When signs are erected giving notice thereof, no person may operate any vehicle exceeding the dimensions specified by such sign or signs at any time upon any street or part of a street so designated.

9.2004 Restrictions Upon Use of Streets by Certain Vehicles

1. The city traffic engineer or authorized person may determine and designate those streets upon which shall be prohibited the use of the roadway by off-highway vehicles, all-terrain vehicles, snowmobiles, bicycles, horse-drawn vehicles or other types of traffic and shall erect appropriate signs giving notice thereof.
2. When signs are so erected giving notice thereof, no person may disobey the restrictions stated on such signs.

ARTICLE 21 - Criminal Traffic Violations

9.2101 Persons Under the Influence of Intoxicating Liquor or Narcotic Drugs not to Operate Vehicle - Penalty

The provisions of North Dakota Century Code section 39-08-01 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. A person may not drive or be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:

- a. That person has an alcohol concentration of at least eight one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle.
- b. That person is under the influence of intoxicating liquor.
- c. That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely driving.
- d. That person is under the combined influence of alcohol and any other drugs or substances to a degree which renders that person incapable of safely driving.

The fact that any person charged with violating this ordinance is or has been legally entitled to use alcohol or other drugs or substances is not a defense against any charge for violating this section, unless a drug which predominately caused impairment was used only as directed or cautioned by a practitioner who legally prescribed or dispensed the drug to that person.

- 2. A person violating this ordinance is guilty of a class B misdemeanor for the first or second offense in a five-year period, of a class A misdemeanor for a third offense in a five-year period, of a class A misdemeanor for the fourth offense in a seven-year period, and of a class C felony for a fifth or subsequent offense in a seven-year period. The minimum penalty for violating this section is as provided in subsection 4. The court shall take judicial notice of the fact that an offense would be a subsequent offense if indicated by the records of the director of the North Dakota Department of Transportation or may make a subsequent offense finding based on other evidence.
- 3. Upon conviction of a second or subsequent offense with five years under this ordinance or equivalent law, the court must order the motor vehicle number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded for the duration of the period of suspension or revocation of the offender's driving privilege by the licensing authority. The impounded number plates must be sent to the director of the North Dakota Department of Transportation who must retain them for the period of suspension or revocation, subject to their disposition by the court. The court may make an exception to this subsection, on an individual basis, to avoid undue hardship to an individual who is completely dependent on the motor vehicle for the necessities of life, including a family member of the convicted individual and a co-owner of the motor vehicle, but not including the offender.
- 4. A person convicted of violating this ordinance must be sentenced in accordance with this subsection.
 - a. For a first offense, the sentence must include both a fine of at least two hundred fifty dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program.
 - b. For a second offense within five years, the sentence must include at least five days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively, or thirty days' community service; a fine of at least five hundred dollars; and an order for addiction evaluation by an appropriate licensed addiction treatment program.
 - c. For a third offense within five years, the sentence must include at least sixty days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively; a fine of one thousand dollars; and an order for addiction evaluation by an appropriate licensed addiction treatment program.

- d. For a fourth or subsequent offense within seven years, the sentence must include one hundred eighty days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively and a fine of one thousand dollars; and an order for addition evaluation by an appropriate licensed addiction treatment program.
- e. The execution or imposition of sentence under this section may not be suspended or deferred under subsection 3 or 4 of section 12.1-32-02 of the North Dakota Century Code.
- f. For purposes of this ordinance, conviction of an offense under a law or ordinance of another state which is equivalent to this section must be considered a prior offense if such offense was committed within the time limitations specified in this subsection.
- g. If the penalty mandated by this ordinance includes imprisonment or placement upon conviction of a violation of this ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo treatment at an appropriate licensed addiction treatment program and the time spent by the defendant in the treatment must be credited as a portion of a sentence of imprisonment or placement under this section. (Source: North Dakota Century Code section 39-08-01)

9.2102 Prior Offenses

For purposes of this article and Article 9.22, a previous conviction does not include any prior violation of Section 9.2101 if the offense occurred prior to July 1, 1981. (Source: North Dakota Century Code section 39-08-01.1)

9.2103 Reckless Driving - Penalty

The provision of North Dakota Century Code section 39-08-03 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Any person is guilty of reckless driving if the person drives a vehicle:

- 1. Recklessly in disregard of the rights or safety of others; or
- 2. Without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or the property of another.

Except as otherwise herein provided, any person violating the provisions of this section shall be guilty of an offense.

9.2104 Accidents Involving Damage to Vehicle - Penalty

The provisions of North Dakota Century Code section 39-08-05 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until the driver has fulfilled the requirements of Section 39-08-06 of the North Dakota Century Code. Every such stop must be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances is guilty of an offense.

9.2105 Duty Upon Striking Unattended Vehicle - Penalty

The provisions of North Dakota Century Code section 39-08-07 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of the vehicle of the name and address, as well as the name of the motor vehicle insurance policy carrier, of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address, as well as the name of the motor vehicle insurance policy carrier, of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances of the collision. Any person violating this section is guilty of an offense.

9.2106 Duty Upon Striking Fixtures Upon a Highway

The provisions of North Dakota Century Code section 39-08-08 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of the driver's name and address and of the registration number of the vehicle the driver is driving and shall upon request and if available exhibit his operator's or chauffeur's license and shall make report of such accident when and as required in Section 9.0309.

9.2107 Penalty for Driving While License Suspended or Revoked - Impoundment of Vehicle Number Plates - Authority of City

The provisions of North Dakota Century Code section 39-06-42 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. Except as provided in Section 39-06.1-11 of the North Dakota Century Code, any person who drives a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state while that person's license or privilege so to do is suspended or revoked is guilty of a class B misdemeanor for the first, second or third offense within a five-year period. Any subsequent offense within the same five-year period is a class A misdemeanor.
2. If a suspension or revocation was imposed for violation of Section 39-08-01 of the North Dakota Century Code or equivalent ordinance or was governed by Section 39-06-31 or Chapter 39-20 of the North Dakota Century Code, the sentence must be at least four (4) consecutive days' imprisonment and such fine as the court deems proper. The execution of sentence may not be suspended or the imposition of sentence deferred under Subsection 3 or 4 of Section 12.1-32-02 of the North Dakota Century Code. Forfeiture of bail is not permitted in lieu of the defendant's personal appearance in open court for arraignment on a charge under this subsection.
3. In addition to any other punishment imposed, the court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by law enforcement officers for the duration of the period of suspension or revocation. When a period of suspension has been extended under Subsection 5 of Section 39-06-17 of the North Dakota Century Code, the court may order the number plates to be impounded in accordance with this subsection. The impounded number plates may be released, upon order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title to the motor vehicle issued by the director of the North Dakota Department of Transportation.

4. The municipal judge may order impoundment of motor vehicle number plates in the manner provided in Subsection 3.

9.2108 Operation of Snowmobiles

1. Definitions:

For the purpose of this article, the following definitions are hereby adopted:

1. "Operate" means to ride in or on and control the operation of a snowmobile.
2. "Operator" means every person who operates or is in actual physical control of a snowmobile.
3. "Person" includes an individual, partnership, corporation, limited liability company, association, the state and its departments, agencies and political subdivisions and any body of persons, whether incorporated or not.
4. "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel.
5. "Snowmobile" means a self-propelled vehicle designed for travel on snow, ice or a natural terrain and steered by skis or runners. (Source: North Dakota Century Code section 39-24-01)

9.2109 Rules for Operation of Snowmobiles

1. No person may operate a snowmobile upon the roadway, shoulder or inside bank or slope of any road, street or highway in this City except as provided pursuant to this article. No snowmobile shall be operated at any time within the right of way of any interstate highway except for emergency purposes.
2. A snowmobile may make a direct crossing of a street or highway provided:
 - a. The crossing is made at an angle of approximately ninety (90) degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
 - b. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
 - c. The driver yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
 - d. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.
3. No snowmobile may be operated unless it is equipped with at least one (1) headlamp, one tail lamp and brakes, all in working order, which conform to standards prescribed by rule of the director of the North Dakota Department of Transportation.
4. The emergency conditions under which a snowmobile may be operated other than as provided by this article shall be such as to render the use of an automobile impractical under such conditions at such period of time and location.
5. It is unlawful for any person to drive or operate any snowmobile in the following ways which are declared to be unsafe and a public nuisance:

- a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
 - b. In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
 - c. While under the influence of intoxicating liquor or a drug as defined in Section 39-24.1-01 of the North Dakota Century Code, or a combination thereof.
 - d. Without a lighted headlamp and tail lamp when required for safety.
 - e. In any tree nursery or planting in a manner which damages or destroys growing stock.
 - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the snowmobile exhaust system.
 - g. Upon any private land when the private land is posted by the owner or tenant prohibiting trespassing. The name of the person posting the land must appear on each sign in legible characters. The posted signs shall be readable from the outside of the land and shall be placed conspicuously at a distance of not more than eight hundred eighty (880) yards (804.68 meters) apart, provided further that as to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes posting of all the enclosed lands.
- 6. It is unlawful for any person to operate a snowmobile pursuant to Chapter 39-24 of the North Dakota Century Code without having in possession a valid driver's license or permit, except as provided by section 39-24-09.1 of the North Dakota Century Code.
 - 7. When snowmobiles are operated within the right of way of any road, street or highway of this state pursuant to this chapter, during times or conditions that warrant the use of lights, such snowmobiles shall travel in the same direction as the direction of motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the snowmobile.
 - 8. It is unlawful for any person to operate a snowmobile within a highway right of way as defined in subsection 37 of section 24-01-01.1 of the North Dakota Century Code between April 1 and November 1 of any year.
 - 9. No snowmobile may be operated at any time within the right of way of any highway within this state while towing a sled, skid or other vehicle, unless the sled, skid or other vehicle is connected to the snowmobile by a hinged swivel and secure hitch.
 - 10. No person under the age of eighteen years may operate, ride or otherwise be propelled on a snowmobile unless the person wears a safety helmet meeting United States department of transportation standards.
- 9.2110 Operation of Motor Vehicle, Tractor or Other Vehicle Prohibited on Flood Protective Works - Exception - Penalty
- 1. Unless authorized by the authority in charge thereof, no person shall operate a motor vehicle, tractor or other vehicle upon or across any flood protective works, including but not limited to, any dike or flood protective works constructed by a state or federal agency or by any municipality or local subdivision of the state.

2. Any person violating the provisions of this section shall be liable to any person suffering injury as a result of the violation; and in addition, shall be guilty of a class B misdemeanor. (Source: North Dakota Century Code section 39-10-65)

9.2111 Driving Without a License

A person may not drive any motor vehicle upon a highway in this City unless such person has a valid license as an operator, or is expressly exempted from licensing requirements, by the laws of this state.

9.2112 License to be Carried and Exhibited on Demand

The provisions of North Dakota Century Code section 39-06-16 and all subsequent amendments are hereby incorporated by reference in this ordinance.

A licensee shall have the licensee's operator's license or permit in the licensee's immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of any district court, municipal court, a patrolman, peace officer or a field deputy or inspector of the North Dakota Department of Transportation. However, a person charged with violating this section may not be convicted or assessed any court costs if the person produces in court, to the chief of police or in the office of the arresting officer an operator's license or permit theretofore issued to that person and valid and not under suspension, revocation or cancellation at the time of the person's arrest.

9.2113 Penalty

Any person who violates any provision of this ordinance for which a specific penalty is not provided may be assessed a fee of up to one hundred dollars.

ARTICLE 22 - Disposition of Traffic Offenses

9.2201 Halting Person for Violating Traffic Regulations - Duty of Officer Halting

The provisions of North Dakota Century Code section 39-07-07 and all subsequent amendment are hereby incorporated by reference in this ordinance.

Whenever any person is halted for the violation of any of the provisions of North Dakota Century Code Chapters 39-01 through 39-13, 39-18, 39-21 and 39-24, or of equivalent City ordinances, the officer halting that person, except as otherwise provided in sections 39-07-09, 39-20-03.1 or 39-02-03.2 of the North Dakota Century Code, may:

1. Take the name and address of the person;
2. Take the license number of the person's motor vehicle; and
3. Issue a summons or otherwise notify that person in writing to appear at a time and place to be specified in the summons or notice.

A halting officer may not take a person into custody or require that person to proceed with the officer to any other location for the purpose of posting bond, where the traffic violation was a non-criminal offense under Section 39-06.1-02. The officer shall provide the person with an envelope for use in mailing the bond.

9.2202 Hearing - Time - Promise of Defendant to Appear - Failure to Appear - Penalty

The provisions of North Dakota Century Code section 39-07-08 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The time to be specified in the summons or notice provided for in Section 9.2201 must be within thirty-five (35) days after the issuance of the summons or notice or earlier if so ordered by the municipal judge or if the person halted demands an earlier hearing. If the person halted desires, the person may have the right, at a convenient hour, to an immediate hearing or to a hearing within twenty-four (24) hours. The hearing must be before the municipal court. Upon the receipt from the person halted of a written promise to appear at the time and place mentioned in the summons or notice, the officer shall release the person from custody. Any person refusing to give a written promise to appear must be taken immediately by the halting officer before the nearest or most accessible magistrate, or to such other place or before such other person as may be provided by a statute or ordinance authorizing the giving of bail. Any person willfully violating the person's written promise to appear is guilty of an offense, regardless of the disposition of the charge upon which the person originally was halted. The time limitations for a hearing as provided by this section do not preclude a recharging of the alleged violation if the person being charged receives a new summons or notice subject to the provisions of this section.

9.2203 Offenses Under Which Person Halted May Not be Entitled to Release Upon Promise to Appear

The provisions of North Dakota Century Code section 39-07-09 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The provisions of Section 9.2201 do not apply to a person if:

1. The halting officer has good reason to believe the person guilty of any felony or if the person is halted and charged with any of the offenses listed in Section 39-06.1-05 of the North Dakota Century Code, but not listed in subsection 2; or
2. The halting officer, acting within the officer's discretion, determines that it is inadvisable to release that person upon a promise to appear and if the person has been halted and charged with any of the following offenses
 - a. Reckless driving.
 - b. Driving in excess of speed limitations established by the state or by local authorities in their respective jurisdictions.
 - c. Driving while license or driving privilege is suspended or revoked for violation of section 39-06-42 of the North Dakota Century Code, or an equivalent ordinance.
 - d. Operating a modified vehicle.
 - e. Driving without liability insurance in violation of section 39-08-20 of the North Dakota Century Code.
 - f. Failing to display a placard or flag, in violation of any rule implementing section 39-21-44 of the North Dakota Century Code, while transporting explosive or hazardous materials.
 - g. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46 of the North Dakota Century Code

The halting officer forthwith shall take any person not released upon a promise to appear before the nearest or most accessible magistrate.

9.2204 Traffic Violations Noncriminal – Exceptions – Procedures

Any person cited, in accordance with the provisions of Sections 9.2201 and 9.2202 of these ordinances, other than an offense listed in Section 39-06.1-05 of the North Dakota Century Code, is deemed to be charged with a non-criminal offense. The person may appear before the designated official and pay the statutory fee for the violation charged at or before the time scheduled for a hearing. If the person has posted bond in person or by mail, the person may forfeit bond by not appearing at the designated time. If the person appears at the time scheduled in the citation, the person may make a statement in explanation of the person's action, and the official may at that time waive, reduce or suspend the statutory fee or bond, or both. If the person cited follows the foregoing procedures, the person is deemed to have admitted the violation and to have waived his right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the official designated in the citation must be identical to the statutory fee established by Section 39-06.1-06 of the North Dakota Century Code. Within ten (10) days after forfeiture of bond or payment of the statutory fee, the official having jurisdiction over the violation shall certify to the licensing authority:

1. Admission of the violation; and
2. In speeding violations, whether the speed charged was in excess of the lawful speed limit by more than nine (9) miles (14.8 kilometers) per hour and the miles (kilometers) per hour by which the speed limit was exceeded.

This section shall not be construed as allowing a halting officer to receive the statutory fee or bond, unless he is otherwise authorized by law to do so. (Source: North Dakota Century Code section 39-06.1-02)

9.2205 Administrative Hearing - Procedures - Appeals - Stay Orders

The provisions of North Dakota Century Code section 39-06.1-03 and all subsequent amendments are hereby incorporated by reference in this ordinance.

1. A person cited for a traffic violation, other than an offense listed in section 39-06.1-05 of the North Dakota Century Code, who does not follow one of the procedures set forth in section 39-06.1-02 of the North Dakota Century Code, may request a hearing on the issue of commission of the violation charged. The hearing must be held at the time scheduled in the citation, or at the time scheduled in response to the person's request or at some future time, not to exceed ninety (90) days later, set at that first appearance.
2. At the time of a request for a hearing on the issue of commission of the violation, the person charged shall deposit with the official having jurisdiction an appearance bond equal to the statutory fee for the violation charged.
3. If a person cited for a traffic violation, other than an offense listed in Section 39-06.1-05 of the North Dakota Century Code, has requested a hearing on the issue of the commission of the violation charged and appears at the time scheduled for the hearing, and the state or City, as the case may be, does not appear or is not ready to prove the commission of a charged violation at the hearing, the official shall dismiss the charge.
4. If the official finds that the person had committed the traffic violation, the official shall notify the licensing authority of that fact, and whether the person was driving more than nine (9) miles per hour in excess of the lawful limit, stating specifically the miles (kilometers) per hour in excess of the lawful limit, if charged with a speeding violation, within ten (10) days of the date of the hearing. The fact that a person has admitted a violation, or has, in any proceeding, been found to have committed a violation, may not be referred to in any way, nor be admissible as evidence in any court, civil, equity or criminal, except in an action or proceeding involving that person's driving license or privilege.

5.
 - a. If a person is aggrieved by a finding that he committed the violation, the person may, without payment of a filing fee, appeal that finding to the district court for trial anew. If, after trial in the appellate court, the person is again found to have committed the violation, there shall be no further appeal. Notice of appeal under this subsection must be given within thirty (30) days after a finding of commission of a violation is entered by the official. Oral notice of appeal may be given to the official at the time that the official adjudges that a violation has been committed. Otherwise, notice of appeal shall be in writing and filed with the official, and a copy of the notice must be served upon the prosecuting attorney. An appeal taken under this subsection may not operate to stay the reporting requirement of subsection 4, nor to stay appropriate action by the licensing authority upon receipt of that report.
 - b. The appellate court upon application by the appellant may:
 - i. Order a stay of any action by the licensing authority during pendency of the appeal, but not to exceed a period of one hundred twenty (120) days;
 - ii. Order a stay and that the appellant be issued a temporary restricted driving certificate by the licensing authority to be effective for no more than one hundred twenty (120) days; or
 - iii. Deny the application.

An application for a stay or temporary certificate under this subdivision must be accompanied by a certified copy of the appellant's driving record, for the furnishing of which the licensing authority may charge a fee of three dollars (\$3.00). Any order granting a stay or a temporary certificate must be forwarded forthwith by the Clerk of Court to the licensing authority, which shall issue a temporary certificate in accordance with the order in the manner provided by law. A court may not make a determination on an application under this subdivision without notice to the appropriate prosecuting attorney. A person who violates or exceeds the restrictions contained in any temporary restricted driving certificate issued pursuant to this subdivision is guilty of a traffic violation and must be assessed a fee of twenty dollars (\$20.00).
 - c. If the person charged is found not to have committed the violation by the appellate court, the clerk of court shall report that fact to the licensing authority immediately. If an appeal under this subsection is from a violation of a City ordinance, the city attorney shall prosecute the appeal. In all other cases, the appropriate state's attorney shall prosecute the appeal.
6. The state or the City, as the case may be, must prove the commission of a charged violation at the hearing or appeal under this section by a fair preponderance of the evidence. Upon an appeal under subsection 5, the court and parties shall follow, to the extent applicable, the North Dakota rules of Civil Procedure. If on the appeal from the finding of the official the finding is affirmed, costs may be assessed at the discretion of the trial judge.
7. As used in Sections 39-06.1-02, 39-06.1-03 and 39.06.1-04 of the North Dakota Century Code, the word "official" means a municipal judge or a magistrate or other qualified person appointed by the presiding judge of the judicial district, to serve as such official for all or a specified part of the judicial district.

9.2206 Failure to Appear, Pay Statutory Fee, Post Bond - Procedure - Penalty

The provisions of North Dakota Century Code section 39-06.1-04 and all subsequent amendments are hereby incorporated by reference in this ordinance.

If a person fails to choose one of the methods of proceeding set forth in Sections 9.2204 or 9.2205, the person must be deemed to have admitted to commission of the violation charged, and the official having jurisdiction shall report such fact to the licensing authority within ten (10) days after the date set for the hearing. Failure to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is a class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

9.2207 Offenses Excepted

The provisions of North Dakota Century Code section 39-06.1-05 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The procedures authorized under Sections 39-06.1-02 and 39.06.1-03 of the North Dakota Century Code may not be utilized by a person charged with one of the following offenses:

1. Driving or being in actual physical control of a vehicle in violation of Section 9.2101.
2. Reckless driving or aggravated reckless driving in violation of Section 9.2103.
3. A violation of Chapter 12.1-16 of the North Dakota Century Code resulting from the operation of a motor vehicle.
4. Leaving the scene of an accident in violation of Sections 39-08-04, 39-08-05, 39-08-07, 39-08-08 of the North Dakota Century Code, or equivalent ordinances.
5. Driving while license or driving privilege is suspended or revoked in violation of Section 39-06-42 of the North Dakota Century Code, or an equivalent ordinance.
6. Violating subdivisions b and c of subsection 5 of Section 39-24-09 of the North Dakota Century Code.
7. Operating a modified motor vehicle in violation of Section 39-21-45.1 of the North Dakota Century Code.
8. Driving without liability insurance in violation of Section 39-08-20 of the North Dakota Century Code.
9. Operating an unsafe vehicle in violation of subsection 1 of section 39-21-46 of the North Dakota Century Code.
10. Causing an accident with an authorized emergency vehicle in violation of subsection 2 of section 39-21-46 of the North Dakota Century Code.

9.2208 Amount of Statutory Fees

The provisions of North Dakota Century Code section 39-06.1-06 and all subsequent amendments are hereby incorporated by reference in this ordinance.

The fees required for a criminal disposition pursuant to either Section 9.2204 or Section 9.2205 shall be as follows:

1. For a nonmoving violation as defined in Section 9.2209, a fee of any amount not to exceed twenty dollars (\$20.00).

2. For a moving violation as defined in Section 9.2210, a fee of twenty dollars (\$20.00), except no fee may be imposed for a violation of Section 9.1702.
3. For a violation of Section 9.0502 a fee established as follows:

Miles Per Hour Over Lawful Speed Limit	Fee
1 - 5	\$ 5.00
6 - 10	\$ 5.00 plus \$1/each mph over 5 mph over limit
11 - 15	\$ 10.00 plus \$1/each mph over 10 mph over limit
16 - 20	\$ 15.00 plus \$2/each mph over 15 mph over limit
21 - 25	\$ 25.00 plus \$3/each mph over 20 mph over limit
26 - 35	\$ 40.00 plus \$3/each mph over 25 mph over limit
36 - 45	\$ 70.00 plus \$3/each mph over 35 mph over limit
46 +	\$100.00 plus \$5/each mph over 45 mph over limit

4. For a violation of Section 9.0501, or an ordinance defining careless driving, a fee of thirty dollars (\$30.00).
5. For a violation of Section 9.0509, or an ordinance defining care required in driving, a fee of not less than ten dollars (\$10.00) nor more than thirty dollars (\$30.00).
6. For a violation of Section 9.1703, a fee not to exceed twenty dollars (\$20.00).

9.2209 “Nonmoving Violation” Defined

The provisions of North Dakota Century Code section 39-06.1-08 and all subsequent amendments are hereby incorporated by reference in this ordinance.

For the purpose of 9.2208, a “nonmoving violation” means a violation of Sections 9.0924, 9.0932, 9.0933 or the provisions of Article 13, Article 14, Article 15 or Article 16 of this Chapter.

9.2210 “Moving Violation” Defined

The provisions of North Dakota Century Code section 39.06.1-09 and all subsequent amendments are hereby incorporated by reference in this ordinance.

For the purpose of 9.2208, a “moving violation” means a violation of Article 5, Article 6, Article 9, Article 11, Article 17, Article 18, Article 19 or Article 21 of this Chapter, except those sections for which a specific penalty is provided and those sections which are specifically listed in Section 9.2209.

9.2211 General Penalty for Violation of Chapter

The provisions of North Dakota Century Code section 39-07-06 and all subsequent amendments are hereby incorporated by reference in this ordinance.

Any person violating any of the provisions of this Chapter for which another criminal penalty is not provided specifically is guilty of an infraction as defined in section 12.1-32-01 of the North Dakota Century Code. As used in this section, the phrase “another criminal penalty” includes provision for payment of a fixed fee for violating another section of this chapter but does not include other administrative sanctions which may be imposed.

9.2212 Notification of Parents or Guardians of Juvenile Traffic Offenders

The municipal judge or municipal court clerk shall notify the parent or guardian of any juvenile appearing before the court on a traffic offense of the charge as contained in the citation, the penalty attached to the offense and the time and place of any court hearing on the matter.

ARTICLE 23 - Sections not Adopted

The sections of Title 39 of the North Dakota Century Code not expressly adopted in Article 1 through Article 22 of this Chapter, inclusive, are not adopted by reference.

ARTICLE 24 - Filing of Ordinance

Incident to the adoption of certain portions of Title 39 of the North Dakota Century Code by reference, a copy of the text of the adopted code shall be filed in the office of the city auditor as required by North Dakota Century Code section 40-05-01(1) for use and examination by the public.

ARTICLE 25 - Adoption of Amendments by Reference

The adoption of certain portions of Title 39 by reference shall be construed to incorporate such amendments as may be made therein from time to time, and such copy of the adopted portions to Title 39 filed as required in Article 24 of this Chapter shall at all times be kept current in the office of the city auditor of this City.

ARTICLE 26 - Severability Clause

If any provision of this ordinance or its application to any person, or circumstances is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

ARTICLE 27 - Penalties

Any person who is convicted of violating or of failing to comply with any of the provisions of this ordinance may be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not to exceed thirty (30) days, or both.

CHAPTER TEN

HEALTH

ARTICLE 1 - Board of Health

- 10.0101 Members
- 10.0102 Regulations

ARTICLE 2 - Local Health Officer

- 10.0201 Duties of Local Health Officer - Term
- 10.0202 Penalty

ARTICLE 3 - Garbage, Refuse, Rubbish

- 10.0301 Definitions
- 10.0302 Accumulation of Refuse Prohibited
- 10.0303 Containers
- 10.0304 Burning
- 10.0305 Nuisance
- 10.0306 City Collection
- 10.0307 Fees
- 10.0308 Fees - Payment - Collection
- 10.0309 Fees - Payment - Collection by Franchised Contractor
- 10.0310 Disposal of Refuse not Collected by the City
- 10.0311 Supervision
- 10.0312 Rules and Regulations
- 10.0313 Dump Ground Site

ARTICLE 4 - Dangerous Buildings

- 10.0401 Dangerous Buildings Defined
- 10.0402 Standards for Repair, Vacation or Demolition
- 10.0403 Dangerous Buildings - Nuisances
- 10.0404 Duties of Building Inspector
- 10.0405 Duties of City Governing Body
- 10.0406 Failure to Comply with Decision of the City Governing Body
- 10.0407 Violations - Penalty for Disregarding Notices or Orders
- 10.0408 Duties of the City Attorney
- 10.0409 Where Owner Absent from the City
- 10.0410 Duties of Fire, Police and Health Departments
- 10.0411 Appeal

ARTICLE 5 – Sprayer Equipment

APPENDIX 10-1: Warning

APPENDIX 10-2: In the Matter of “Dangerous Buildings” / Notice and Order

APPENDIX 10-3: In the Matter of “Dangerous Buildings” / Notice of Hearing

CHAPTER TEN

HEALTH

ARTICLE 1 – Board of Health

10.0101 Members

The Board of Health is composed of the City governing body, which shall have and exercise all powers under the law. (Source: North Dakota Century Code section 23-35-03)

10.0102 Regulations

The Board of Health may make rules regarding any nuisance, source of filth, and any cause of sickness which are necessary for public health and safety. The Board of Health shall appoint a local health officer. (Source: North Dakota Century Code section 23-35-08).

ARTICLE 2 – Local Health Officer

10.0201 Duties of Local Health Officer – Term

1. A local health officer shall serve a term of five years, subject to removal for cause by the governing body or the district board of health. The health officer must be a physician licensed to practice medicine in this state and need not be a resident of the public health unit. The appointee shall qualify by filing the constitutional oath of office in the manner provided for the members of the board of health. If the state health officer finds a local health officer is failing to perform the duties of the position, the state health officer may report the case to the governing body. At the next meeting of the governing body or district board of health, the governing body or district board of health shall declare the office vacant and may appoint another physician to fill the unexpired term, or shall report the matter to the board of health, and the board shall declare the office vacant and promptly shall appoint another physician to fill the unexpired term.
2. Within the jurisdiction of the board of health, a local health officer:
 - a. Shall keep a record of the official acts of the local health officer.
 - b. Shall enforce every law and rule relating to preservation of life and health of individuals.
 - c. May exercise the powers and duties of the board of health under the supervision of the board of health.
 - d. May make sanitary inspections of any place within the jurisdiction in which the local health officer finds a probability a health-threatening condition exists.
 - e. May investigate public water and ice supplies suspected of contamination and initiate necessary condemnation proceedings.
 - f. May enforce school cleanliness; inspect any schools that may be overcrowded, poorly ventilated, or unsanitary; and, when necessary, report cases of any unsanitary or unsafe school building to the board of health for investigation.
 - g. May take any action necessary for the protection of public health and safety.
 - h. May determine when quarantine and disaffection is necessary for the safety of the public. The local health officer may establish quarantines consistent with procedures provided under chapter 23-07.6 of the North Dakota Century Code, and perform any acts required for disinfecting when necessary.
 - i. Shall maintain an office within the jurisdiction of the public health unit consistent with any terms of appointment.

- j. May select and discharge any assistant health officer in the public health unit, consistent with any terms of appointment.
3. A local health officer may request the assistance of a county sheriff or city health department in the same manner as provided under subsection 3 of section 23-35-09 of the North Dakota Century Code. (Source: North Dakota Century Code section 23-35-12)

10.0202 Penalty

Any person who violates any order, ordinance, or rule prescribed by the board of health or local health officer or any rule adopted under this chapter shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not to exceed thirty (30) days or both such fine and imprisonment. (Source: North Dakota Century Code section 23-35-13)

ARTICLE 3 – Garbage, Refuse, Rubbish

10.0301 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.

10.0302 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.

10.0303 Containers

All garbage and rubbish shall be placed by the person upon whose premises the same shall have been produced or accumulated, in 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.

Containers over 70# and or garbage in containers over 40 gallons will not be dumped.

10.0304 Burning

No garbage, refuse or rubbish shall be burned within the City.

10.0305 Nuisance

Failure to comply with the provisions of Sections 10.0302, 10.0303 and 10.03004, shall constitute a public nuisance and be punishable as such under the terms of Chapter 12 of these ordinances.

10.0306 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.

10.0307 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.

10.0308 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.

10.0309 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 provision of Section 10.0308.

10.0310 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.

10.0311 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 public works superintendent with the assistance of the City health officer. The public works superintendent 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.

10.0312 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.

10.0313 Dump Ground Site

The disposal of any household garbage (putrescible waste), waste grain, elevator screenings, treated grain, animal wastes, carcasses, sewage wastes, pesticide cans, batteries, hazardous wastes, oils, greases, oil filters, solvents, or any liquids upon the dump ground site described as Lot 4 of Section 4, Township 132 North, Range 71 West, is hereby prohibited.

Trespassing upon said site is hereby prohibited.

Any person violating this ordinance shall on conviction thereof be punished by a fine not exceeding \$100.00 or by imprisonment for not exceeding 10 days, or by both such fine and imprisonment.

ARTICLE 4 – Dangerous Buildings

10.0401 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, and 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.

10.0402 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 all cases where a building cannot be repaired so that it will no longer exist in violation to the terms of this article it shall be demolished. In all cases where a “dangerous building” is a fire hazard existing or erected in violation of the terms of this article or any ordinance of the City or statute of the State of North Dakota, it shall be demolished.

10.0403 Dangerous Buildings – Nuisances

All “dangerous buildings” within the terms of Section 10.0401 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.

10.0404 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 10.0401 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 10.0401 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)

10.0405 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 10.0404, 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 10.0404, 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 10.0401 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”.

10.0406 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.

10.0407 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 to demolish said building given by any person authorized by this Article to give such notice or order shall be guilty of an infraction and upon conviction thereof shall be fined not exceeding five hundred dollars (\$500.00) for each offense and every day subsequent to such notice in which the said owner shall fail to comply with any notice or order as stated shall be deemed 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 guilty of an infraction and upon conviction thereof shall be fined not exceeding five hundred dollars (\$500.00) for each offense and every day subsequent to such notice in which the said occupant or lessee shall fail to comply with any notice or order as above stated, shall be deemed a separate offense.

Any person removing the notice provided for in Subsection 8 of Section 10.0404 shall be guilty of an infraction and upon conviction shall be fined not exceeding five hundred dollars (\$500.00) for each offense.

10.0408 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 10.0404, subsections 4 and 5 and the order provided for in Section 10.0405, 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.

10.0409 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.

10.0410 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.

10.0411 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.

APPENDIX 10-1

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

WARNING

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.

City Building Inspector

_____, North Dakota

APPENDIX 10-2

**IN THE MATTER OF A “DANGEROUS BUILDING” LOCATED IN
THE CITY OF _____, NORTH DAKOTA,
WITH AN ADDRESS OF**

NOTICE AND ORDER

You are hereby notified that the undersigned, building inspector of the City of _____, North Dakota, acting pursuant to Article 4, Chapter 10 of the Ordinances of the City of _____, has made an inspection of the following described building in which you are, or appear to be, interested: _____

You are further notified that the undersigned building inspector deems the foregoing described building to be dangerous within the meaning of Section 10.0401 of said Ordinances in the following particulars: _____

YOU ARE THEREFORE ORDERED TO _____

The said building on or before this _____ day of _____, 20____.

Building Inspector

Dated this _____ day of _____, 20____.

APPENDIX 10-3

**IN THE MATTER OF “DANGEROUS BUILDINGS’ LOCATED
AT _____, NORTH DAKOTA
UNDER ARTICLE 4, CHAPTER TEN**

NOTICE OF HEARING

You are here by notified that the building inspector of _____, North Dakota, has filed with the City governing body a report that you have not complied with a Notice and Order that buildings located at _____ were dangerous buildings and were to be demolished by you prior to _____, 20__.

You are further notified to appear before the City governing body at _____ on the _____ day of _____, 20__, at the hour of _____ o’clock ___ m., to show cause as to why the building reported to be “dangerous building”, should not be demolished in accordance with the statement of particulars set forth in the Building Inspector’s Notice.

Dated _____, 20__.

THE CITY OF _____, NORTH DAKOTA

By _____
Mayor

ATTEST:

_____.

City Auditor

ARTICLE 5 – Sprayer Equipment

Storing Spraying Equipment

Exceptions

1. Small sprayers having less than 5 gallons in capacity.
2. Sprayers that are being stored on used machinery lots for the purpose of sale, with no chemicals in them. New sprayers that have never been filled with chemicals. Or sprayers that have been mechanically disabled, and which have been taken to a repair shop for the purpose of repair, provided that chemicals are not leaking from sprayer.
3. Parking or storing spraying equipment is prohibited within the City of Wishek.

CHAPTER ELEVEN
ANIMALS AND FOWL

ARTICLE 1 - General Regulations

- 11.0101 Cruelty - Penalty
- 11.0102 Dangerous Animals
- 11.0103 Permit - When Issued
- 11.0104 Killing Dangerous Animals
- 11.0105 Diseased Animals
- 11.0106 Housing
- 11.0107 Keeping of Certain Animals Prohibited
- 11.0108 Strays
- 11.0109 Noises
- 11.0110 Penalty
- 11.0111 Exotic Animals

ARTICLE 2 - Dogs and Cats

- 11.0201 License Required
- 11.0202 Licensing Procedure and Terms
- 11.0203 License Fee
- 11.0204 License: When Due and Payable
- 11.0205 Dog or Cat Running at Large Prohibited
- 11.0206 Disposition of Unlawful Dogs or Cats
- 11.0207 Disposition of Unclaimed Dogs or Cats
- 11.0208 Return to Owner if Known
- 11.0209 Noisy Dog or Cat Prohibited
- 11.0210 Nuisance - When
- 11.0211 Penalty

CHAPTER ELEVEN
ANIMALS AND FOWL

ARTICLE 1 – General Regulations

11.0101 Cruelty – Penalty

No person may cruelly treat any animal in the City. Any person who beats, underfeeds, overloads or abandons any animal shall be deemed guilty of an offense for which the maximum penalty shall be a fine of one thousand five hundred dollars (\$1,500.00), thirty (30) day imprisonment, or both such fine and imprisonment. (Source: North Dakota Century Code Section 36-21.1-02)

11.0102 Dangerous Animals

It is 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 chief of police. It is also 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 chief of police.

11.0103 Permit – When Issued

The chief of police shall have discretion as to whether or not to issue a permit pursuant to Section 11.0102. If the chief of police shall refuse to issue a permit, the decision may be appealed to the City governing body. 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 chief of police may 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 is guilty of a violation of this article.

11.0104 Killing Dangerous Animals

The members of the police department 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.

11.0105 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 the chief of police or the health officer.

It is hereby made the duty of the health officer to secure such disposition of any 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.

11.0106 Housing

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

11.0107 Keeping of Certain Animals Prohibited

It is unlawful to keep any live sheep, swine or pigs, livestock, mules, llamas, emus, horses, ostriches, chickens or other poultry or 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.

11.0108 Strays

It is 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 is also unlawful to picket or tie any such animal in any of the streets of the City for the purpose of grazing or feeding.

11.0109 Noises

It is unlawful to harbor or keep any animal which habitually disturbs the peace by loud noises at any time of the day or night.

11.0110 Penalty

Any person who violates the provisions of this article for which a specific penalty is not otherwise provided shall be guilty of an infraction for which the maximum penalty is a fine of one thousand dollars (\$1,000.00). The owner of any animal impounded pursuant to the provisions of this article shall pay all costs and charges assessed for such impoundment before such animal may be released to the owner.

11.0111 Exotic Animals

No exotic animals allowed in the city. Reference N.D. ADMIN. CODE Å§48-12-01-02 - Definitions

ARTICLE 2 – Dogs, Cats & Rabbits

11.0201 License Required

No dog or cat over eight months of age shall be permitted to be or remain in the City without being licensed as provided in this Article. It shall be the duty of the owner or keeper of any dog or cat kept within the City to have the dog or cat inoculated against rabies and proof thereof must shown to the person issuing the license before a license may be issued.

Only 4 total licenses are permitted per household.

Any person who breeds, trains and sells dogs or cats or houses for hire needs a kennel permit, approved by the City council.

If a licensed cat or dog has a litter, the owner has 8 months to remove the litter from the home if they are over the license limit.

11.0202 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 chief of police or other authorized person on an annual basis. The person paying the license fee shall receive a receipt therefore and a license tag with which to mark the animal. It shall be the duty of the owner or keeper to cause such license tag or to be securely attached around the animal's neck and kept there at all times during the license period.

11.0203 License Fee

The license fee shall be \$5.00 annually for each male dog and each spayed female dog: \$5.00 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 chief of police a letter or certificate signed by a licensed veterinarian to the effect that such dog has been spayed: or such other evidence as the license issuer may require.

A kennel permit for Dogs or cats will be \$50.00 annually.

11.0204 License: When Due and Payable

The license fees or renewal fees previously provided for shall become due and payable on the 1st day of January in each year and shall become delinquent on the 1st day of May in each. If the fee is not paid before the first day of May a penalty of \$50.00 shall be added to the license or renewal fee.

11.0205 Dog or Cat Running at Large Prohibited

It shall be unlawful for the owner or keeper of any dog or cat to permit the same to run at large in the City at any time. A dog or cat shall not be considered running at large if attended and on a leash or when in the confines of the owner's or keeper's premises.

11.0206 Disposition of Unlawful Dogs or Cats

Any unlicensed dog or cat or any dog or cat running at large may be taken up by any police officer and impounded at the City dog pound, or such other place as may be designated by the governing body. The dog or cat shall not be released to any person until such dog or cat is licensed (if unlicensed); a fee of \$100.00 is paid for the taking of each animal, and all pound charges are paid directly to the facility where the dog or cat is housed.

11.0207 Disposition of Unclaimed Dogs or Cats

The owner or keeper shall be notified of the taking of the dog or cat. If the owner or keeper fails to pay the charges (including license if necessary) and claim the animal within three days of notification the animal may be destroyed. If the owner or keeper is unknown, the chief of police shall give public notice of the taking of the animal before it is destroyed or otherwise disposed of.

11.0208 Return to Owner if Known

Notwithstanding the provisions of Section 11.0206, 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.

11.0209 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.

11.0210 Nuisance – When

Any licensed dog or cat, any dog or cat running at large, any dog or cat disturbing the peace, or any dog or cat molesting passers by, chasing vehicles or trespassing upon private property is hereby declared to be a nuisance.

11.0211 Penalty

Any person violating any provision of this article shall be guilty of an infraction and be fined not to exceed one thousand dollars (\$1,000.00).

CHAPTER TWELVE

PUBLIC NUISANCES

ARTICLE 1 - Sanitary Nuisances

- 12.0101 Residence - When Sewer and Water Required
- 12.0102 Outhouses - Cesspools - A Nuisance
- 12.0103 Outhouses - Cesspools - Exceptions
- 12.0104 Outhouses - Cesspools - Offensive Odors
- 12.0105 Outhouses - Cesspools - Cleaning of
- 12.0106 Dead Animals
- 12.0107 Water Pools - Putrid Substances

ARTICLE 2 - Smoke - Gases

- 12.0201 Smoke, Dust, Ashes, Cinders, Gases - A Nuisance
- 12.0202 Smoke, Dust, Ashes, Cinders, Gases - Prohibited

ARTICLE 3 - Radio Interference and Noise Control

- 12.0301 Radio Interference Prohibited
- 12.0302 Loud, Disturbing, Unnecessary Noises - Prohibited

ARTICLE 4 - Automobiles - Personal Property

- 12.0401 Automobiles, Personal Property - When a Nuisance
- 12.0402 Abatement Required by Owners
- 12.0403 Abatement Required - Penalty for Failure
- 12.0404 Removal and Impoundment by City
- 12.0405 Removal and Impoundment - When Sold
- 12.0406 Removal and Impoundment Proceeds

ARTICLE 5 - Noxious Weeds & Grass

- 12.0501 Definition
- 12.0502 Weeds Prohibited
- 12.0503 Notice to Destroy
- 12.0504 Action Upon Non-Compliance
- 12.0505 Cost Assessed to Property

ARTICLE 6 – Man Camps

- 12.0601 Definition

ARTICLE 7 – General Penalty Provision

- 12.0701 Penalty for Violation of Chapter

ARTICLE 8 – Wind Energy

- 12.0801 Wind Energy

CHAPTER TWELVE

PUBLIC NUISANCES

ARTICLE 1 – Sanitary Nuisances

12.0101 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.

12.0102 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.

12.0103 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.

12.0104 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.

12.0105 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.

12.0106 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.

12.0107 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

12.0201 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.

12.0202 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

12.0301 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.

12.0302 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.

ARTICLE 4 – Automobiles – Personal Property

12.0401 Automobiles, Personal Property – When a Nuisance

Unsheltered storage of old, used, stripped, junked and other automobiles not in good, safe operating condition, or not current license, and of any other vehicles, machinery implements and/or equipment and personal property of any kind which is no longer safe for the purposes for which it was manufactured, for a period of thirty (30) days or more (except in a licensed junk yard) within the City, and any motor vehicle, animal and article of personal property which constitutes an obstruction to, hazard or detriment to public traffic, snow removal operations, public safety and public health, or which may be abandoned or unclaimed within the City, is hereby declared to be a nuisance and shall be abated in the manner prescribed in this article.

12.0402 Abatement Required by Owners

The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of this City upon which such storage is made, and also the owner, /owners and /or lessees of the property involved in such storage (all of whom are hereinafter referred to collectively as “owners”), shall jointly and severally abate the nuisance by the prompt removal of the personal property into completely enclosed buildings authorized to be used for storage purposes, if within the corporate limits of the City, or otherwise to remove it to a location outside of corporate limits.

12.0403 Abatement Required – Penalty for Failure

If the owners allow a nuisance to exist or fail to abate a nuisance they, and each of them upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00) for each infraction and a

separate infraction may be deemed committed on each day during or on which the nuisance is permitted to exist.

12.0404 Removal and Impoundment by City

The police department may remove or cause to be removed to the City Hall, or any other place within the City selected for storage purposes, any personal property described in 12.0401, and may impound and retain the same until the expense of removal, storage and impounding is paid, together with the amount of any fine, costs, bail or other claims of the City against the owner, or any other person lawfully entitled to the possession thereof.

12.0405 Removal and Impoundment – When Sold

If not reclaimed and redeemed by the true owner or the person lawfully entitled to the possession thereof within a period of thirty (30) days after impounding, any article of personal property described in 12.0401 may be sold and disposed of by the police department in the manner hereinafter provided. Notice that such property will be sold shall be published once, at least (6) days prior to the sale, in the official newspaper. Such notice shall specify a description of the property to be sold and the time and place of sale. Any sale may be postponed or discontinued by public announcement at the time of the sale where there are not bidders or when the amount offered is grossly inadequate, or for other reasonable cause. The City may become a purchaser of any or all property at the sale. The chief of person making the sale shall give the purchaser at the sale a receipt for the purchase of such property.

12.0406 Removal and Impoundment Proceeds

Within thirty (30) days after a sale, the person making the sale shall make out, in writing, and file with the City a full report of the sale, specifying the property sold, the amount received therefore, the amount of costs and expenses and the disposition of the proceeds of the sale. The proceeds arising from the sale shall be delivered to the city auditor and credited to the general fund. All additional expenses not recovered from sale of property will be assessed to the owner's property tax.

ARTICLE 5 – Noxious Weeds & Grass

12.0501 Definition

Whenever used in this ordinance, the term “noxious weeds” shall mean and include all weeds listed with the McIntosh County Weed Board, or any similar unwanted vegetation over six inches in height, also long grass or deleterious, unhealthful growths within the City of Wishek is declared to be a nuisance.

12.0502 Weeds 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 or other deleterious, unhealthful growths, or grasses over six inches tall.

12.0503 Notice to Destroy

The City health officer or person designated by the City is hereby authorized and empowered to cut, destroy, and /or remove any noxious weeds or grass that is over 6 inches, 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 either delivered in person, a phone call or 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.

12.0504 Action Upon Non-Compliance

Upon the failure, neglect, or refusal of any owner or agent to cut, destroy and/or remove noxious weeds or grass over 6 inches 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 cut, destroy, and/or removal of such noxious weeds or to order their removal by the City.

12.0505 Cost Assessed to Property

When the City has effected the removal of such noxious weeds or grass 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 grass 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 – Man Camps

12.0601 Definition

It is prohibited to start or maintain a “man camp” within the city limits of the City of Wishek or within 1 mile jurisdictional area of the City of Wishek. Man camps are define as temporary housing/living areas.

ARTICLE 7 – General Penalty Provision

12.0701 Penalty for Violation of Chapter

Any person violating any of the provisions of this Chapter, upon conviction, is subject to a fine of not more than five hundred dollars (\$500.00) for each violation, and a separate violation may be deemed committed on each day the violation is permitted to exist.

ARTICLE 8 – Wind Energy

12.0801 Wind Energy

CITY OF WISHEK

PURPOSE: *The purpose of this ordinance is to establish standards and procedures by which the installation and operation of Wind Energy Conversion Systems (WECS) shall be governed within the City.*

APPLICATION: *Wind energy conversion systems may be allowed as a conditional use within any non-residential zoning district of the City, subject to the regulations and requirements of this chapter.*

DECLARATION OF CONDITIONS: *The Planning Commission may impose such conditions on the granting of WECS conditional use permit as may be necessary to carry out the purpose and provisions of this Chapter.*

Conditional Use: *In order to carry out the purposes of this title, the planning board finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area, or other reasons, be reviewed by the planning and zoning commission prior to the granting of a building permit and that the planning and zoning commission is hereby given limited discretionary powers relating to the granting of such permit or certificate.*

Permanent Use: *The city planning and zoning commission is authorized to grant conditional use permits for the following use:*

a) **Small Wind Energy Systems.** *This section is intended to provide reasonable standards for the use of a Small Wind Energy System (SWES) which would allow electrical power consumers to supplement or replace their use of utility-provided electrical power without creating negative impacts to adjacent properties or the public.*

1. *For the purposes of this section, a SWES is defined as a wind turbine of less than 25 kilowatts maximum output capacity and all appurtenant structures and equipment. A SWES is incidental and accessory to a permitted principal use located on the same lot or parcel of land. A SWES is intended to produce electricity primarily for on-site consumption but excess electrical power may be transferred to a utility company power supply grid pursuant to utility company interconnection agreements.*
2. *A SWES may be permitted in any non-residential zoning district subject to approval of a conditional use permit by the Wishek Planning and Zoning Commission. A conditional use permit may be revoked at any time if the SWES is found to be in violation of any of the rules of this or other sections of the Wishek Code of*

Ordinances or in violation of any of the conditions imposed by the Wishek Planning and Zoning Commission in granting the conditional use permit.

- 3. The minimum building setback distance shall be 150% of the height of the structure.**
 - a) The setback distance is the horizontal distance from the center of the supporting structure to the nearest property line or to the nearest overhead utility easement or underground petroleum product pipeline easement.**
 - b) The height of the structure is the vertical distance from the ground surface to the highest point of a rotor blade when in an upright position.**
- 4. The bottom of the rotor blade sweep shall be no closer than 35 feet above the ground surface. Blades may not extend over parking areas, driveways, or sidewalks.**
- 5. The structure must be located a minimum of 500 feet from the boundary of any residential district.**
- 6. Sound produced by a SWES shall not exceed the following limits at the property line:**

Zoning District	Day	Night
Residential: i	55	45
Commercial:	60	50
Industrial:	65	60

- a) Sound pressure level limits are measured in dB (A) as specified in the latest edition of the American National Standards Institute specifications.**
 - b) Sound is measured at the property line of any 'receiving' property.**
 - c) "Day is defined as the time period from 7:00 a.m. to 10:00 p.m. "Night" is defined as the time period from 10:00 p.m. to 7:00 a.m.**
- 7. Additional rules regarding SWES.**
- a) Sound Measurements. Following approval and installation of a SWES, the Planning Commission may require the owner/operator of the SWES to engage a certified technician to perform sound measurements at the closest property line to determine and report ambient and operating decibel levels.**
 - b) Braking Controls. All SWES shall be equipped with both automatic and manual braking controls to prevent uncontrolled rotation and to limit the rotation speed to the design limits of the SWES.**

- c) **Insurance.** The owner/operator of a SWES must provide proof of liability insurance at the time of application.
- d) **Shadow Flicker.** Shadow flicker shall not negatively impact any adjacent properties.
- e) **Electronic Interference.** The SWES shall not cause electronic or electromagnetic interference with signal receptions or transmissions beyond the boundaries of the property upon which the SWES is located.
- f) **Monopole Requirement.** Within the corporate boundary of the City of Wishek, wind turbines are required to be mounted on monopole structures without guy wires. Within the extraterritorial zoning jurisdiction of the City of Wishek, monopole structures are not required for wind turbines and guy wires may be used.
- g) **Roof mounted SWES.** Roof-mounted SWES are not allowed.
- h) **Color.** To minimize off-site visibility to the greatest extent possible, the color of a structure shall be a neutral white or light gray and surface finish shall be non-reflective.
- i) **Lighting.** The use of flood lights, laser lights, strobe lights, searchlights, beacons and similar lighting is prohibited unless required by the FAA.
- j) **Signs.** SWES shall have one sign, not to exceed 2 square feet at the base of the tower and said sign shall contain the following information:
 - A) Warning high voltage
 - B) Manufacturer's name
 - C) Emergency phone number
 - D) Emergency shutdown procedures
- k) **Climbing Apparatus.** No climbing apparatus shall be located within 12 feet of the ground on any structure. All structures shall be designed to prevent climbing by unauthorized persons.
- l) **Removal of Defunct Systems.** Facilities shall be well maintained in an operational condition that poses no potential safety hazard.
 - A) If a SWES remains nonfunctional for a continuous period of one year, the system shall constitute a public Nuisance and shall be removed.
 - B) The owner shall remove a defunct system at the owner's expense.
 - C) Removal includes the entire structure and related appurtenances including any foundation and transmission systems
- m) **Building Permit Required.** Following approval of a conditional

- 3. The local electrical utility company serving the subject property.**
- 9. An application for a building permit for the placement of a SWES must include:**
 - i. A copy of the conditional use permit, with the site plan,
as approved by the city planning and zoning commission;**
 - b. Dimensioned engineering drawings of the structure including the tower, base, and footings;**
 - c. Line drawing of the electrical components in sufficient Detail to allow for a determination that the manner of Installation will meet compliance with the electrical Code; and**
 - d. Documentation certifying that the SWES will meet Structural loading requirements for a 90 m.p.h. sustained wind. Wind load certification shall be prepared by a professional structural engineer registered in the State of North Dakota.**

Section 2. Severability If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date This ordinance shall take effect following passage and adoption.

CHAPTER THIRTEEN

OFFENSES

ARTICLE 1 - In General

- 13.0101 Criminal Contempt
- 13.0102 Hindering Proceedings by Disorderly Conduct
- 13.0103 Fleeing or Attempting to Elude a Police Officer
- 13.0104 Interference with Officers
- 13.0105 False Alarms or False Reports

ARTICLE 2 - Offenses Against Persons

- 13.0201 Simple Assault
- 13.0202 Sexual Assault
- 13.0203 Harassment

ARTICLE 3 - Offenses Against Property

- 13.0301 Criminal Mischief - Penalty
- 13.0302 Tampering with or Damaging a Public Service
- 13.0303 Consent as a Defense and Definition of “of another” for Criminal Mischief or Tampering with or Damaging a Public Service
- 13.0304 Criminal Trespass
- 13.0305 Consolidated Theft Offenses
- 13.0306 Theft of Property
- 13.0307 Theft of Services
- 13.0308 Theft of Property Lost, Mislaid or Delivered by Mistake
- 13.0309 Thefts Punishable Under City Ordinances
- 13.0310 Defrauding Secured Creditors - Penalty
- 13.0311 Retail Theft - Shoplifting
- 13.0312 Defenses and Proof as to Theft and Related Offenses
- 13.0313 Definitions
- 13.0314 Making or Uttering Slugs

ARTICLE 4 - Offenses Against Public Order, Health, Safety and Sensibilities

- 13.0401 Engaging in a Riot
- 13.0402 Disobedience of Public Safety Orders Under Riot Conditions
- 13.0403 Disorderly Conduct
- 13.0404 Defense when Conduct Consists of Constitutionally Protected Activity
- 13.0405 Gambling
- 13.0406 Prostitution
- 13.0407 Unlawful Cohabitation (Repealed)
- 13.0408 Business or Labor on Sunday
- 13.0409 Cruelty to Animals
- 13.0410 Persons Less than Twenty-One (21) Years Prohibited - Exceptions
- 13.0411 Misrepresentation of Age - Obligations of Licensee
- 13.0412 Bottle Clubs Prohibited
- 13.0413 Public Intoxication - Assistance - Medical Care
- 13.0414 No Prosecution for Intoxication
- 13.0415 Objectionable Materials or Performance - Display to Minors - Definitions - Penalty
- 13.0416 Curfew, General Regulations - Penalty

ARTICLE 5 - Sentencing

- 13.0501 Classification of Offenses
- 13.0502 Sentencing Alternatives
- 13.0503 Procedure for Trial of Infraction - Incidents
- 13.0504 Special Sanction for Organizations
- 13.0505 Factors to be Considered in Sentencing
- 13.0506 Imposition of Fine - Response to Non-payment
- 13.0507 Incidents of Probation
- 13.0508 Conditions of Probation - Revocation
- 13.0509 Restitution or Reparation - Procedures
- 13.0510 Merger of Sentences - Sentencing for Multiple Offenses

ARTICLE 6 – Penalties

- 13.601 Penalty for Violation of Chapter

CHAPTER THIRTEEN

OFFENSES

ARTICLE 1 – In General

13.0101 Criminal Contempt

1. The Municipal Court has power to punish for contempt of its authority for the following offenses:
 - a. Misbehavior of any person in its presence or so near thereto as to obstruct the Administration of justice;
 - b. Misbehavior of any of its officers in their official transactions; or
 - c. Disobedience or resistance to its lawful writ, process, order, rule, decree or command.
2. A criminal contempt proceeding under this section is not a bar to subsequent prosecution for a specific offense if the court certifies in the judgment of conviction of criminal contempt, or the order terminating the proceeding without acquittal or dismissal, that a summary criminal contempt proceeding was necessary to prevent repetition of misbehavior disruptive of an ongoing proceeding and that subsequent prosecution as a specific offense is warranted.
3. This section shall not be construed to deprive a court of its power, by civil contempt proceedings, to compel compliance with its lawful writ, process, order, rule, decree or command or to compensate a complainant for losses sustained by reason of disobedience or resistance thereto, in accordance with the prevailing usage's of law and equity, including the power of detention.

13.0102 Hindering Proceedings by Disorderly Conduct

A person is guilty of an offense if the person recklessly or intentionally hinders an official city proceeding by noise or violent or tumultuous behavior or disturbance.

13.0103 Fleeing or Attempting to Elude a Police Officer

Any driver of a motor vehicle who willfully fails or refuses to bring the vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police vehicle, when given a visual or audible signal to bring the vehicle to a stop, is guilty of a class B misdemeanor. A signal complies with the section if the signal is perceptible to the driver and the police officer giving such signal is in uniform, prominently displaying the officer's badge of office, and the vehicle is appropriately marked showing it to be an official police vehicle. (Source: North Dakota Century Code section 39-10-71).

13.0104 Interference with Officers

No person in the City shall resist any police or fire officer, any member of the police or fire departments, or any person duly empowered with police or fire authority, while in the discharge or apparent discharge of duty, or in any way interfere with or hinder in the discharge of duty.

13.0105 False Alarms or False Reports

No person in the City shall intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or aid or abet in the commission of such act. No person in the City shall

make to, or file with, the police department of the City any false, misleading or unfounded statement or report concerning the commission or alleged commission of any crime occurring in the City.

ARTICLE 2 – Offenses Against Persons

13.0201 Simple Assault

1. A person is guilty of an offense if that person:
 - a. Willfully causes substantial bodily injury to another human being; or
 - b. Negligently causes substantial bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.
2. Consent to the conduct causing bodily injury by all persons injured by the conduct is a defense if:
 - a. Neither the injury inflicted nor the injury threatened is such as to jeopardize life or seriously impair health;
 - b. The conduct and the injury are reasonable foreseeable hazards of joint participation in a lawful athletic contest or competitive sport; or
 - c. The conduct and the injury are reasonable foreseeable hazards of an occupation or profession or of medical or scientific experimentation conducted by recognized methods and the persons subjected to such conduct or injury, having been made aware of the risks involved, consent to the performance of the conduct or the infliction of the injury.
3. Assent does not constitute consent, within the meaning of this ordinance, if:
 - a. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense and such incompetence is manifest or known to the actor;
 - b. It is given by a person who by reason of youth, mental disease or defect, or intoxication, is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature of harmfulness of the conduct charged to constitute the offense; or
 - c. It is induced by force, duress or deception. (Source: North Dakota Century Code sections 12.1-17-01 and 12.1-17-08)

13.0202 Sexual Assault

1. A person who knowingly has sexual contact with another person, or who causes another person to have sexual contact with that person, is guilty of an offense if:
 - a. That person knows or has reasonable cause to believe that the contact is offensive to the other person;
 - b. That person knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders that other person incapable of understanding the nature of that other persons conduct;

- c. That person or someone with that person's knowledge has substantially impaired the victim's power to appraise or control the victim's conduct, by administering or employing without the victim's knowledge, intoxicants, a controlled substance as defined in Chapter 19-03.1 of the North Dakota Century Code, or other means for the purpose of preventing resistance;
- d. The other person is in official custody or detained in a hospital, prison or other institution and the actor has supervisory or disciplinary authority over that other person;
- e. The other person is a minor, fifteen years of age or older, and the actor is the other person's parent, guardian, or is otherwise responsible for general supervision of the other person's welfare; or
- f. The other person is a minor, fifteen years of age or older, and the actor is an adult. (Source: North Dakota Century Code section 12.1-20-07).

13.0203 Harassment

A person is guilty of an offense if, with intent to frighten or harass another, the person:

- a. Makes a telephone call anonymously or in offensively coarse language;
- b. Makes repeated telephone calls, whether or not a conversation ensues, with no purpose of legitimate communication; or electronic communication
- c. Communicates a falsehood by telephone and causes mental anguish. (Source: North Dakota Century Code section 12.1-17-07(1) (b), (c), (d))

ARTICLE 3 – Offense Against Property

Division 1. Property Destruction and Criminal Intrusion

13.0301 Criminal Mischief – Penalty

A person is guilty of an offense if that person:

- a. Willfully tampers with tangible property of another so as to endanger person or property; or
- b. Willfully damages tangible property of another.

Conduct is punishable as criminal mischief under this ordinance when pecuniary loss, if Intentionally caused, is not in excess of one hundred dollars (\$100.00); if recklessly caused, is not in Excess of two thousand dollars (\$2,000.00); and if the damages to tangible property of another are not by means of an explosive or a destructive device.

- c. The penalty for the offense of criminal mischief may not exceed a fine of one thousand dollars (\$1,000.00), imprisonment from thirty (30) days, or both such fine and imprisonment. (Source: North Dakota Century Code sections 12.1-21-05 and 40-05-06)

13.0302 Tampering with or Damaging a Public Service

A person is guilty of an offense if that person causes a substantial interruption or impairment of a public communication, transportation, supply of water, gas, power or other public service by:

- a. Tampering with or damaging the tangible property of another;
- b. Incapacitating an operator of such service; or
- c. Negligently damaging the tangible property of another by fire, explosive or other dangerous means. (Source: North Dakota Century Code section 12.1-21-06).

13.0303 Consent as a Defense and Definition of “of another” for Criminal Mischief or Tampering with or Damaging a Public Service

For prosecution of criminal mischief under 13.0301 or tampering with or damaging a public Service under 13.0302.

- 1. Whenever it is an element of the offense that the property is of another, it is a defense to a prosecution under those sections that the other has consented to the actor’s conduct with respect to the property.
- 2. Property is that “of another” if anyone other than the actor has a possessory or proprietary interest therein. (Source: North Dakota Century Code sections 12.1-21-07 and 12.1-21-08(2)).

13.0304 Criminal Trespass

A person is guilty of an offense if, knowing that the person is not licensed or privileged to do so, that person, enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the person in charge of the premises or other authorized person or by posting in a manner reasonably likely to come to the attention of intruders. (Source: North Dakota Century Code section 12.1-22-03 (3)).

Division 2. Theft and Related Offenses

13.0305 Consolidated Theft Offenses

- 1. Conduct denominated theft in Sections 13.0306 to 13.0308 constitutes a single offense designed to include the separate offenses heretofore known as larceny, stealing, purloining, embezzlement, obtaining money or property by false pretenses, extortion, blackmail, fraudulent conversion, receiving stolen property, misappropriation of public funds, swindling and the like.
- 2. A charge of theft under 12.0306 to 13.0308, which fairly apprises the defendant of the nature of the charges against the defendant, shall not be deemed insufficient because it fails to specify a particular category of theft. The defendant may be found guilty of theft under such charge if the defendant’s conduct falls under 13.0306 to 13.0308, so long as the conduct proved is sufficiently related to the conduct charged that the accused is not unfairly surprised by the case that must be met. (Source: North Dakota Century Code section 12.1-23-01).

13.0306 Theft of Property

A person is guilty of theft if that person:

- a. Knowingly takes or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another with intent to deprive the owner thereof;

- b. Knowingly obtains the property of another by deception or by threat with intent to deprive the owner thereof, or intentionally deprives another of his property by deception or by threat; or
- c. Knowingly receives, retains or disposes of property of another which has been stolen, with intent to deprive the owner thereof. (Source: North Dakota Century Code section 12.1-23-02).

13.0307 Theft of Services

A person is guilty of theft if:

- a. The person intentionally obtains services, known by the person to be available only for compensation, by deception, threat, false token or other means to avoid payment for the services; or
- b. Having control over the disposition of services of another to which the person is not entitled, the person knowingly diverts those services to his own benefit or to the benefit of another not entitled thereto.

Where compensation for services is ordinarily paid immediately upon their rendition, as in the case of hotels, restaurants, and comparable establishments, absconding without payment or making provision to pay is prima facie evidence that the services were obtained by deception. (Source: North Dakota Century Code section 12.1-23-03).

13.0308 Theft of Property Lost, Mislaid or Delivered by Mistakes

A person is guilty of theft if the person:

- a. Retains or disposes of property of another when that person knows it has been lost or mislaid; or
- b. Retains or disposes of property of another when that person knows it has been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property; and with intent to deprive the owner of it, he fails to take readily available and reasonable measures to restore the property of a person entitled to have it. (Source: North Dakota Century Code Section 12.1-23-04).

13.0309 Thefts Punishable Under City Ordinances

Theft under 13.00306 to 13.0308 may be punished as an offense against the City ordinances if the highest value by any reasonable standard, regardless of the actor's knowledge of such value, of the property or services which were stolen by the actor, or which the actor believed that he was stealing, or which the actor could reasonably have anticipated to have been the property or services involved, does not exceed two hundred fifty dollars (\$250.00) and if:

- a. The theft was not committed by threat;
- b. The theft was not committed by deception by one who stood in a confidential or fiduciary relationship to the victim of the theft;
- c. The defendant was not a public servant or an officer or employee of a financial institution who committed the theft in the course of official duties;
- d. The property stolen is not a firearm, ammunition, explosive or destructive device, or an automobile, aircraft or other motor-propelled vehicle;

- e. The property does not consist of any government file, record, document or other government paper stolen from any government office or from any public servant;
- f. The defendant is not in the business of buying or selling stolen property and he does not receive, retain or dispose of the property in the course of that business;
- g. The property stolen does not consist of any implement, paper or other thing uniquely associated with the preparation of any money, stamp, bond or other document, instrument or obligation of the State of North Dakota;
- h. The property stolen does not consist of livestock taken from the premises of the owner;
- i. The property stolen does not consist of a key or other implement uniquely suited to provide access to property the theft of which would be a felony or was not stolen to gain such access.
- j. The property stolen is not a card, plate, or other credit device existing for the purpose of obtaining money property, labor, or services on credit, or is a debit card, electronic fund transfer card, code or other means of access to an account for the purpose of initiating electronic fund transfers. (Source: North Dakota Century Code section 12.1-23-05).

13.0310 Defrauding Secured Creditors – Penalty

A person is guilty of an offense if he destroys, removes, conceals, encumbers, transfers, or otherwise deals with property subject to a security interest with intent to prevent collection of the debt represented by the security interest or if he makes false statements at the time of sale as to the existence of security interests.

13.0311 Retail Theft – Shoplifting

- 1. **Presumption.** Any person concealing upon that person's person or among that person's belongings, or causing to be concealed upon the person or among the belongings of another, unpurchased merchandise displayed, held, offered or stored for sale in a retail mercantile establishment and removing it to a point beyond the last station for receiving payments in that retail mercantile establishment shall be prima facie presumed to have so concealed such merchandise with the intention of permanently depriving the merchant of possession or of the full retail value of such merchandise. (Source: North Dakota Century Code section 51-21-02)
- 2. **Detention of Suspect – Procedure.** Any peace officer or merchant who reasonably believes that a person has committed, or is in the process of committing theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:
 - a. To require the person to identify himself;
 - b. To verify such identification;
 - c. To determine whether such person has in the person's possession unpurchased merchandise and, if so, to recover such merchandise;
 - d. To inform a peace officer of the detention of the person and surrender custody of that person to a peace officer;

- e. In the case of a minor, to inform a peace officer, the parents, guardian or other private person interested in the welfare of that minor of this detention and to surrender custody of said minor to the person informed. (Source: North Dakota Century Code section 51-21-03)
3. Definitions. As used in this section, unless the context requires otherwise:
- a. An item is “concealed” within the meaning of this section if, even though there is some notice of its presence, the item itself is not visible through ordinary observation.
 - b. “Full retail value” means the merchant’s stated or advertised price of the merchandise.
 - c. “Merchandise” means any item of tangible personal property and specifically includes shopping carts.
 - d. “Merchant” means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, franchise or independent contractor or such owner or operator.
 - e. “Person” means any natural person or individual.
 - f. “Premises of a retail mercantile establishment” includes, but is not limited to, the retail mercantile establishment, any common use areas in shopping centers, and all parking areas set aside by a merchant, or on behalf of a merchant for the parking of vehicles for the convenience of the patrons of said retail mercantile establishment.
 - g. “Retail mercantile establishment” means any place where merchandise is displayed, held, offered or stored for sale to the public.
 - h. “Shopping cart” means those push carts of the type or types which are commonly provided by grocery stores, drugstores or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and, incidentally, from the stores to a place outside the store. (Source: North Dakota Century Code section 51-21-01)
4. Theft of unpurchased merchandise, displayed, held, offered or stored for sale in a mercantile establishment from that establishment when open for business is “shoplifting” for which the offender may be assessed a penalty upon conviction not exceeding one thousand dollars (\$100.00), imprisonment of thirty (30) days, or both such fine and imprisonment. (Source: North Dakota Century Code section 40-05-06).

13.0312 Defenses and Proof as to Theft and Related Offenses

- 1. It is a defense to a prosecution under this Article that:
 - a. The actor honestly believed that he had a claim to the property or services involved which he was entitled to assert in the manner which forms the basis for the charge against him; or
 - b. The victim is the actor’s spouse, but only when the property involved constitutes household or personal effects or other property normally accessible to both spouses and the parties involved are living together. The term ‘spouse’, as used in this section includes persons living together as husband and wife.

2. It does not constitute a defense to a prosecution for conducts constituting an offense in violation of this article that:
 - a. Stratagem or deception, including the use of an undercover operative or law enforcement officer, was employed;
 - b. A facility or an opportunity to engage in such conduct, including offering for sale property not stolen as if it were stolen, was provided; or
 - c. Mere solicitation that would not induce an ordinary law-abiding person to engage in such conduct was made by a law enforcement officer to gain evidence against a person predisposed to engage in such conduct.
3.
 - a. It is a prima facie case of theft under this Article if it is shown that a public servant or an officer, director, agent, employee of, or a person connected in any capacity with a financial institution has failed to pay or account upon lawful demand for money or property entrusted to him as part of his official duties or if an audit reveals a shortage or falsification of his accounts.
 - b. It is a prima facie case of theft under this Article if it is shown that a person, having successfully bid on and obtained an item at an auction, removed the item from the auction premises without paying or making provisions to pay for the item.
 - c. Proof of the purchase or sale of stolen property at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen.
 - d. Proof of the purchase or sale of stolen property by a dealer in property, out of the regular course of business, or without the usual inducement of ownership other than mere possession, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen. (Source: North Dakota Century Code section 12.1-23-09).

13.0313 Definitions

In this Article:

1. “Dealer in property” means a person who buys or sells property as a business.
2. “Deception” means:
 - a. Creating or reinforcing a false impression, including false impressions as to fact, law, status, value, intention or other state of mind; but deception as to a person’s intention to perform a promise shall not be inferred from the fact alone that he did not substantially perform the promise unless it is part of a continuing scheme to defraud; or
 - b. Preventing another from acquiring information which would affect his judgment of a transaction; or
 - c. Failing to correct a false impression which the actor previously created or reinforced, or which he knows to be influencing another to whom he stands in fiduciary or confidential relationship; or

- d. Failing to correct an impression which the actor previously created or reinforced and which the actor knows to have become false due to subsequent events; or
 - e. Failing to disclose a lien, adverse claim, or other impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained or in order to continue to deprive another of his property, whether such impediment is or is not valid, or is or is not a matter of official record; or
 - f. Using a credit card, charge plate or any other instrument which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer (i.) where such instrument has been stolen, forged, revoked or canceled, or where for any other reason its use by the actor is unauthorized, and (ii.) where the actor does not have the intention and ability to meet all obligations to the issuer arising out of his use of the instrument; or
 - g. Any other scheme to defraud. The term “deception” does not, however, include falsifications as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. “Puffing” means an exaggerated commendation of wares in communications addressed to the public or to a class or group.
3. “Deprive” means:
- a. To withhold property or to cause it to be withheld either permanently or under such circumstances that a major portion of its economic value, or its use and benefit, has, in fact, been appropriated; or
 - b. To withhold property or to cause it to be withheld with the intent to restore it only upon the payment of a reward or other compensation; or
 - c. To dispose of property or use it or transfer any interest in it under circumstances that make its restoration, in fact, unlikely.
4. “Fiduciary” means a trustee, guardian, executor, administrator, receiver or any other person acting in a fiduciary capacity, or any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary.
5. “Financial institution” means a bank, insurance company, credit union, safety deposit company, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.
6. “Obtain” means:
- a. In relation to property, to bring about a transfer or purported transfer of an interest in the property, whether to the actor or another; or
 - b. In relation to services, to secure performance thereof.
7. “Property” means any money, tangible or intangible personal property, property (whether real or personal) the location of which can be changed (including things growing on, affixed to, or found in land and documents although the rights represented thereby have no physical location), contract right, chose-in-action, interest in or claim to wealth, credit or any other article or thing of value of any kind. “Property” also means real property,

the location of which cannot be moved if the offense involves transfer or attempted transfer of an interest in the property.

8. "Property of another" means property in which a person other than the actor or in which a government has an interest without consent, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person or government might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another that has a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security agreement. "Owner" means any person or a government with an interest in property such that it is "property of another" as far as the actor is concerned.
9. "Receiving," means acquiring possession, control or title, or lending on the security of the property.
10. "Services" means labor, professional service, transportation, telephone, mail or other public service, gas, electricity and other public utility services, accommodations in hotels, restaurants, or elsewhere, admission to exhibitions, and use of vehicles or other property.
11. "Stolen" means property which has been the subject of theft or robbery or a vehicle which is received from a person who is then in violation of North Dakota Century Code Section 12.1-23-06.
12. "Threat" means an expressed purpose, however communicated, to:
 - a. Cause bodily injury in the future to the person threatened or to any other person; or
 - b. Cause damage to property; or
 - c. Subject the person threatened or any other person to physical confinement or restraint; or
 - d. Engage in other conduct constituting a crime; or
 - e. Accuse anyone of a crime; or
 - f. Expose a secret or publicize an asserted fact, whether true or false, tending to subject a person living or deceased, to hatred, contempt or ridicule or to impair another's credit or business repute; or
 - g. Reveal any information sought to be concealed by the person threatened; or
 - h. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
 - i. Take or withhold official action as a public servant, or cause a public servant to take or withhold official action; or
 - j. Bring about or continue to strike, boycott or other similar collective action to obtain property or deprive another of his property which is not demanded or received for the benefit of the group which the actor purports to represent; or
 - k. Cause anyone to be dismissed from his employment, unless the property is demanded or obtained for lawful union purposes; or

1. Do any other act which would not in itself substantially benefit the actor or a group he represents but which is calculated to harm another person in a substantial manner with respect to his health, safety, business, employment, calling, career, financial condition, reputation or personal relationship.

Upon a charge of theft, the receipt of property in consideration for taking or withholding official action shall be deemed to be theft by threat regardless of whether the owner voluntarily parted with his property or he initiated the scheme.

13. "Traffic" means:

- a. To sell, transfer, distribute, dispense or otherwise dispose of to another person; or
- b. To buy, receive, possess or obtain control of, with intent to sell, transfer, distribute, dispense or otherwise dispose of to another person. (Source: North Dakota Century Code section 12.1-23-10)

13.0314 Making or Uttering Slugs

1. A person is guilty of an offense if that person makes or utters a slug or slugs which do not exceed fifty dollars (\$50.00) in value with intent to deprive a supplier of property or service sold or offered by means of a coin machine or with knowledge that he is facilitating such a deprivation by another person.
2. In this section:
 - a. "Slug" means a metal, paper or other object which by virtue of its size, shape or any other quality is capable of being inserted, deposited or otherwise used in a coin machine as an improper but effective substitute for a genuine coin, bill or token;
 - b. "Coin machine" means a coin box, turnstile, vending machine, or other mechanical or electronic device or receptacle designed (i.) to receive a coin or bill of a certain denomination or a token make for the purpose; and (ii.) in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing, or permit the acquisition of property or a public or private service.
 - c. "Value" of the slugs means the value of the coins, bills or tokens for which they are capable of being substituted.

ARTICLE 4 – Offenses Against Public Order, Health, Safety and Sensibilities

Division 1. Riot

13.0401 Engaging in a Riot

1. A person is guilty of an offense if that person engages in a riot.
2. "Riot" means a public disturbance involving an assemblage of five (5) or more persons, which by tumultuous and violent conduct creates grave danger of damage or injury to property or persons or substantially obstructs law enforcement or other government function. (Source: North Dakota Century Code sections 12.1-25-01(2) and 12.1-25-03)

13.0402 Disobedience of Public Safety Orders Under Riot Conditions

A person is guilty of an offense if, during a riot as defined in Section 13.0401(2) or which when one is immediately impending, he disobeys a reasonable public safety order to move, disperse or refrain from specified activities in the immediate vicinity of the riot. A public safety order is an order designated to prevent or control disorder, or promote the safety of persons or property, issued by the senior law enforcement official on the scene. (Source: North Dakota Century Code section 12.1-25-04).

Division 2. Disorderly Conduct

13.0403 Disorderly Conduct

1. An individual is guilty of violating the ordinances of this City, if with intent to harass, annoy or alarm another person or in reckless disregard of the fact that another is harassed, annoyed or alarmed by the individual's behavior, the individual:
 - a. Engages in fighting or in violent, tumultuous or threatening behavior;
 - b. Makes unreasonable noise;
 - c. In a public place, uses abusive or obscene language, or makes an obscene gesture;
 - d. Obstructs vehicular or pedestrian traffic, or the use of a public facility;
 - e. Persistently follows a person in or about a public place or places;
 - f. While loitering in a public place for the purpose of soliciting sexual contact, the individual solicits such contact;
 - g. Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose; or
 - h. Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person. (Source: North Dakota Century Code Section 12.1-31-01).

13.0404 Defense when Conduct Consist of Constitutionally Protected Activity

Ordinance 13.0403 does not apply to constitutionally protected activity. If an individual claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim, as a matter of law, and, if found valid, shall exclude evidence of the activity. (Source: North Dakota Century Code section 12.1-31-01 (2)).

Division 3. Gambling

13.0405 Gambling

1. It shall be an infraction to engage in gambling.
2. "Gambling" means risking any money, credit, deposit or other thing of value for gain, contingent, wholly or partially, upon lot, chance, the operation of gambling apparatus, or the happening or outcome of an event, including an election or sporting event, over which the person taking the risk has no control. Gambling does not include:

- a. Lawful contests for skill, speed strength or endurance in which awards are made only to entrants or to the owners of entries; or
 - b. Lawful business transactions or other acts or transactions now or hereafter expressly authorized by law.
3. “Gambling apparatus” means any device, machine, paraphernalia or equipment that is used or usable in playing phases of any gambling activity, whether that activity consists of gambling between persons, or gambling by a person involving the playing of a machine. Gambling apparatus does not include an amusement game or device as defined in North Dakota Century Code Section 53-04-01, or an antique “slot” machine twenty-five (25) years old or older which is collected and possessed by a person as a hobby and is not maintained for the business of gambling.
 4. This Ordinance shall not apply to gambling or games of chance conducted by a licensee under the authority of a valid license issued by the State of North Dakota.

Division 4. Sexual Offenses

13.0406 Prostitution

1. A person is guilty of the offense of prostitution if that person:
 - a. Is an inmate of a house of prostitution or is otherwise engaged in sexual activity as a business;
 - b. Solicits another person with the intention of being hired to engage in sexual activity; or
 - c. Agrees to engage in sexual activity with another for money or other items of pecuniary value.
2. Testimony of a person against his or her spouse shall be admissible to prove offenses under this section involving the spouse’s prostitution.
3. In this section:
 - a. A “house of prostitution” is any place where prostitution is regularly carried on by a person under the control, management or supervision of another.
 - b. An “inmate” is a prostitute who acts as such in or through the agency of a house of prostitution.
 - c. “Sexual activity” means sexual act or sexual contact as those terms are defined in North Dakota Century Code section 12.1-20-02. (Source: North Dakota Century Code sections 12.1-29-03, 12.1-29-04, 12.1-29-05)

13.0407 Unlawful Cohabitation - (See North Dakota Century Code Section 12.1-20-10 – Repealed, 2007).

Division 5. Sunday Business or Labor

13.0408 Business or Labor on Sunday

1. Except as otherwise provided in this section, it is a class B misdemeanor for any person between the hours of twelve midnight and twelve noon on Sunday to engage in or conduct business or labor for profit in the usual manner and location, operate a place of business open to the public, or authorize or direct that person's employees or agents to take action prohibited under this section. This subsection does not apply to any person who in good faith observes a day other than Sunday as the Sabbath, if that person refrains from engaging in or conducting business or labor for profit and closes the place of business to the public between the hours of twelve midnight and twelve noon on the day observed as the Sabbath. (Source: North Dakota Century Code Section 12.1-30-01)

2. Except for items sold at hobby shows, craft show, fairs, exhibits, occasional rummage sales including garage sales or other sales for which a sales tax permit is not required, and tourist attractions that derive at least fifty percent (50%) of their annual gross sales from seasonal or tourist customers, the sale or rental of any of the following items between the hours of twelve midnight and twelve noon on Sunday is prohibited:
 - a. Clothing other than work gloves and infant supplies;
 - b. Clothing accessories;
 - c. Wearing apparel other than that sold to a transient traveler under emergency conditions;
 - d. Footwear;
 - e. Headwear;
 - f. Home, business, office or outdoor furniture;
 - g. Kitchenware;
 - h. Kitchen utensils;
 - i. China;
 - j. Home appliances;
 - k. Stoves;
 - l. Refrigerators;
 - m. Air conditioners;
 - n. Electric fans;
 - o. Radios;
 - p. Television sets;
 - q. Washing machines
 - r. Dryers;
 - s. Cameras;
 - t. Hardware other than emergency plumbing, heating, cooling or electrical repair or replacement parts and equipment;
 - u. Tools other than manually driven hand tools;
 - v. Jewelry;
 - w. Precious or semiprecious stones;
 - x. Silverware;
 - y. Watches;
 - z. Clocks;
 - aa. Luggage;
 - bb. Motor vehicles other than the daily rental of vehicles by business whose sole activity is automobile rental;
 - cc. Musical instrument
 - dd. The sale of audio or video recordings, records or tapes. Rental of these items is permitted;
 - ee. Toys other than those customarily sold as novelties or souvenirs;
 - ff. Mattresses;
 - gg. Bed coverings;
 - hh. Household linens;
 - ii. Floor coverings;
 - jj. Lamps;

- kk. Draperies;
- ll. Blinds
- mm. Curtains;
- nn. Mirrors;
- oo. Cloth piece goods;
- pp. Lawnmowers;
- qq. Sporting or recreational goods other than those sold or rented on the premises where sports or recreational activities are conducted;
- rr. Paint and building and lumber supplies. (Source: North Dakota Century Code section 12.1-30-02)

3. Subject to the limitations of this subsection and subsection 2, a business specified in this section may operate in the business' usual manner, location, and for its usual purposes. The businesses authorized under this subsection to operate on Sunday include:

- a. Restaurants, cafeterias or other prepared food service organizations;
- b. Hotels, motels and other lodging facilities;
- c. Hospitals and nursing homes, including the sale of giftware on the premises;
- d. Dispensaries of drugs and medicines;
- e. Ambulance and burial services;
- f. Generation and distribution of electric power, water, steam, natural gas, oil or other fuel used as a necessary utility;
- g. Distribution of gas, oil and other fuels;
- h. Telephone, telegraph and messenger services;
- i. Heating, refrigeration and cooling services;
- j. Railroad, bus, trolleys, subway, taxi and limousine services;
- k. Water, air and land transportation services and attendant facilities;
- l. Cold store warehouse;
- m. Ice manufacturing and distribution facilities and services;
- n. Minimal maintenance of equipment and machinery;
- o. Plant and industrial protection services;
- p. Industries where continuous processing or manufacturing is required by the very nature of the process involved.
- q. Newspaper publication and distribution;
- r. Newsstands;
- s. Radio and television broadcasting;
- t. Motion picture, theatrical and musical performances;
- u. Motor vehicle service stations that sell motor fuel and motor oil, and that customarily provide daily repair services or products for any of the following systems or parts of a motor vehicle:
 - i. Air conditioning system;
 - ii. Batteries;
 - iii. Electrical system;
 - iv. Engine cooling system
 - v. Exhaust system;
 - vi. Fuel system;
 - vii. Tires and tubes;
 - viii. Emergency work necessary for the safe and lawful operation of the motor vehicle.
- v. Athletic and sporting events;
- w. Parks, beaches and recreational facilities;
- x. Scenic, historic and tourist attractions;
- y. Amusement centers, fairs, zoos and museums;
- z. Libraries;
- aa. Educational lectures, forums and exhibits;
- bb. Service organizations (USO, YMCA, etc.);

- cc. Coin-operated laundry and dry-cleaning facilities;
- dd. Food stores operated by an owner or manager in addition to not more than six employees working in the store at one time on a Sunday; (Note: the governing body of a city may, by ordinance increase the number of employees)
- ee. Bait shops for the sale of live bait and fishing tackle;
- ff. Floral nurseries;
- gg. Christmas tree stands;
- hh. Hobby shows, craft shows, fairs, exhibits;
- ii. Occasional rummage sales, including garage sales or other sales for which a sales tax permit is not required;
- jj. Community festivals licensed or authorized by the governing body of a city or the board of county commissioners;
- kk. Premises licensed to dispense beer and alcoholic beverages within the limits prescribed in North Dakota Century Code Sections 5-02-05 and 5-02-05.1.
- ll. Credit apparel services, lodging and travel reservation services, and, notwithstanding subsection 2, telemarketing of goods and services.
- mm. Bingo halls and onsite food concessions between the hours of twelve midnight and one a.m. and within the hours permitted under 13.0408(1). (Source: North Dakota Century Code Section 12.1-30-03)

Division 6. Cruelty to Animals

13.0409 Cruelty to Animals

1. It is an offense for any person to:
 - a. Overdrive, overload, torture, cruelly beat, neglect or unjustifiably injure, maim, mutilate or kill any animal, or cruelly work any animal when unfit for labor;
 - b. Deprive any animal over which he has charge or control of necessary food, water or shelter;
 - c. Keep any animal in any enclosure without exercise and wholesome change of air;
 - d. Abandon any animal;
 - e. Allow any maimed, sick, injured or disabled animal of which he is the owner, or of which he has custody, to lie in any street, road or other public place for more than three (3) hours after notice;
 - f. No person shall willfully instigate, or in any way further, any act of cruelty to any animal or animals, or any act tending to produce such cruelty.
 - g. Cage any animal for public display except as allowed by North Dakota Century Code Section 36-21.1-02(8);
2. The word "animal" includes every living animal except the human race; the word "torture" or "cruelty" includes every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering or death is caused or permitted. (Source: North Dakota Century Code sections 36-21.1-01 and 36-21-02)

Division 7. Alcohol Related Offenses

13.0410 Persons Less than Twenty-One (21) Years Prohibited – Exceptions

1. Any person under twenty-one (21) years of age manufacturing or attempting to manufacture alcoholic beverages, purchasing or attempting to purchase alcoholic beverages, consuming or having recently consumed alcoholic beverages other than during a religious service, being under the influence of alcoholic beverages, or being in possession of alcoholic beverages, or furnishing money to any person for such purchase, or entering any licensed premises where alcoholic beverages are being sold or displayed, except as provided in Subsection 2, is guilty of an offense. The court may, under this Section, refer the person to an outpatient addiction facility licensed by the state department of human services for evaluation and appropriate counseling or treatment. The offense of consumption occurs where consumption takes place or where the offender is arrested. For purposes of this section, possession includes actual or constructive possession. Constructive possession means the power and capability to exercise dominion and control over the alcoholic beverage.
2. Except as permitted in this Section, any licensee who dispenses alcoholic beverages to a person under twenty-one (21) years of age, or who permits such a person to remain on the licensed premises while alcoholic beverages are being sold or displayed, is guilty of an offense, subject to the provisions of sections 5-01-08, 5-01-08.1 and 5-01-08.2 of the North Dakota Century Code. An individual under twenty-one (21) years of age may not remain in a restaurant where alcoholic beverages are being sold except if the restaurant is separate from the room in which alcoholic beverages are opened or mixed and gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area or except as otherwise provided by North Dakota Century Code section 5-02-06. Any person who is nineteen years of age or older but under twenty-one years of age may be employed by the restaurant to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person twenty-one or more years of age, but may not be engaged in mixing, dispensing, or consuming alcoholic beverages. Any establishment where alcoholic beverages are sold may employ persons from eighteen (18) to twenty-one (21) years of age to work in the capacity of musicians under the direct supervision of a person twenty-one (21) or more years of age. (Source: North Dakota Century Code sections 5-01-08 and 5-02-08).

13.0411 Misrepresentation of Age – Obligations of Licenses

Any person who misrepresents or misstates that person's age or the age of any other person or who misrepresents that person's age through presentation of any document purporting to show that person to be of legal age to purchase alcoholic beverages is guilty of an offense. Any licensee may keep a book and may require anyone who has shown documentary proof of his age, which substantiates his age to allow the purchase of alcoholic beverages, to sign the book if the age of that person is in question. The book must show the date of the purchase, the identification used in making the purchase and the appropriate numbers of such identification, the address of the purchaser, and the purchaser's signature. (Source: North Dakota Century Code section 5-01-08.1).

13.0412 Bottle Clubs Prohibited

Any person operating an establishment whereby persons are allowed to bring their own alcoholic beverages on the premises where the proprietor sells soft drinks, mix, ice, or charges for bringing such beverages on the premises, are guilty of an offense. (Source: North Dakota Century Code section 5-01-10).

13.0413 Public Intoxication – Assistance – Medical care

A peace officer has authority to take any apparently intoxicated person to the person's home, to a local hospital, to a detoxification center, or, whenever that person constitutes a danger to himself or others, to a jail for purposes of detoxification. A duly licensed physician of a local hospital or a licensed addiction counselor of a detoxification center has authority to hold that person for treatment up to seventy-two (72) hours. That intoxicated person may not be held in jail because of intoxication more than twenty-four (24) hours. An intoxicated person may not be placed in a jail unless a jailer is constantly present within hearing distance and medical services are provided when the need is indicated. Upon placing that person in a hospital, detoxification center, or jail, the peace officer shall make a reasonable effort to notify the intoxicated person's family as soon as possible. Any additional costs incurred by the city on account of an intoxicated person shall be recoverable from that person. (Source: North Dakota Century Code section 5-01-05.1).

13.0414 No Prosecution for Intoxication

No person may be prosecuted solely for public intoxication. Law enforcement officers may utilize standard identification procedures on all persons given assistance because of apparent intoxication. (Source: North Dakota Century Code section 5-01-05.2).

Division 8. Protection of Minors

13.0415 Objectionable Materials or Performance – Display to Minors-Definitions – Penalty

1. A person is guilty of an offense if that person willfully displays at newsstands or any other business establishment frequented by minors, or where minors are or may be invited as a part of the general public, any photograph, book, paperback book, pamphlet, or magazine, the exposed cover or available content of which exploits, is devoted to, or is principally made up of depiction's of nude or partially denuded human figures posed or presented in a manner to exploit sex, lust or perversion for commercial gain.
2. As used in this section:
 - a. "Nude or partially denuded human figures" means less than completely and opaquely covered human genitals, pubic regions, female breasts or a female breast, if the breast or breasts are exposed below a point immediately above the top of the areola, or human buttocks; and includes human male genitals in a discernible turgid state even if completely and opaquely covered.
 - b. "Where minors are or may be invited as a part of the general public" includes any public roadway or public walkway.
 - c. The above shall not be construed to include a bona fide school, college, university, museum, public library or art gallery. (Source: North Dakota Century Code section 12.1-27.1-03.1)

Division 9. Regulation of Minors

13.0416 Curfew, General Regulations – Penalty

1. As used in this Section, unless the context or subject matter otherwise requires:

- a. “Juvenile” for the purpose of this ordinance means a person less than sixteen (16) years of age.
 - b. “Parents” means the legally appointed father and/or mother, or the natural father and/or mother, or the person or persons in charge of or in control of said juveniles herein defined including a bona fide employer of said juvenile.
 - c. “Curfew hour” means the time of night, which is designated as 11:00 o’clock PM, except Friday and Saturday nights, which is 1:00 o’clock AM.
 - d. “Sounding of the curfew” means the sound emitted by a single blast of the fire siren, sounded at the curfew hour.
2. Each night of the year there shall be a sounding of the curfew at the curfew hour. It shall be unlawful for any juvenile as herein defined to be abroad upon the streets, alleys, public grounds of the City, public places of amusement, or retail or wholesale business establishments, between the curfew hour and 5:00 o’clock AM of the following day unless accompanied by a parent as defined herein. Any juvenile violating this provision of this ordinance, in addition to the other punishments prescribed in this ordinance, shall be detained by the authorities until picked up by parent as defined herein.

It shall be unlawful for any parents to allow their juveniles as herein defined to be abroad upon the streets, alleys, public grounds of the City, public places of amusement, or retail or wholesale business establishments between the curfew hour and 5:00 o’clock AM of the following day unless accompanied by a parent as herein defined.

3. A violation of this Section shall be an infraction. Any person violating any of the terms or provisions of this Article shall, upon conviction thereof, be punished by a fine not to exceed five hundred dollars (\$500.00).

ARTICLE 5 – Sentencing

13.0501 Classification of Offenses

Offenses against the ordinances of this city are divided into two (2) classes, as follows:

1. Offense, for which a maximum penalty of thirty (30) days imprisonment, a fine of one thousand dollars (\$1,000.00), or both, may be imposed.
2. Infraction, for which a maximum fine of five hundred dollars (\$500.00) may be imposed. Any person convicted of an infraction who has, within one year prior to commission of the infraction of which he was convicted, been previously convicted of an offense classified as an infraction in state statutes or the ordinances of this or any other North Dakota city may be sentenced as though convicted of an offense. If the prosecution contends that the infraction is punishable as an offense, the complaint shall so specify unless the prosecution is unable with reasonable effort to learn of the prior conviction prior to execution of the complaint.
3. All violations of the provisions of the Ordinances of this city are offenses unless specifically labeled infractions or unless a different classification or punishment is specifically authorized.
4. The penalties listed shall not be construed to prohibit the utilization of the sentencing alternatives, other than a fine or imprisonment, provided by section 12-1-32-02 of the North Dakota Century Code and Section 13.0502, for the violation of a city ordinance, nor does this section limit the use of deferred or suspended sentences.

(Source: North Dakota Century Code sections 12.1-32-01 and 40-05-06).

13.0502 Sentencing Alternatives

1. Every person convicted of an offense who is sentenced by the court must be sentenced to one or a combination of the following alternatives, unless the sentencing alternatives are otherwise specifically provided in the statute defining the offense or sentencing is deferred under subsection 4:
 - a. Payment of the reasonable costs of the person's prosecution;
 - b. Probation;
 - c. A term of imprisonment, including intermittent imprisonment;
 - d. A fine;
 - e. Restitution for damages resulting from the commission of the offense;
 - f. Restoration of damaged property or other appropriate work detail;
 - g. Commitment to an appropriate licensed public or private institution for treatment of alcoholism, drug addiction or mental disease or defect.
 - h. Commitment to a sexual offender treatment program.

Sentences imposed under this subsection may not exceed in duration the maximum sentences of imprisonment provided in Section 13.0501 or as provided specifically in an ordinance defining an offense.

This subsection does not permit the unconditional discharge of an offender following conviction. This subsection shall not be construed to prohibit utilization of North Dakota Century Code section 40-18-13 relating to suspension of sentence, nor shall this subsection limit the conditions, which can be imposed on a probationer under Sections 13.0507, 13.0508, or 13.0509.

2. Credit against any sentence to a term of imprisonment must be given by the court to a defendant for all time spent in custody in a jail or mental institution for the offense charged, whether that time is spent prior to trial, during trial, pending sentence, or pending appeal.
3. A court may suspend the execution of all or a part of the sentence imposed. The court shall place the defendant on probation during the term of suspension.
4. A court, upon application or its own motion, may defer imposition of sentence. The court must place the defendant on probation during the period of deferment. An order deferring imposition of sentence is reviewable upon appeal from a verdict or judgment. In any subsequent prosecution, for any other offense, the prior conviction for which imposition of sentence is deferred may be pleaded and proved, and has the same effect as if probation had not been granted or the information or indictment dismissed under section 12.1-32-07.1 of the North Dakota Century Code.
5. A court may, prior to imposition of sentence, order the convicted offender committed to an appropriate licensed public or private institution for diagnostic testing for such period of time as may be necessary, but not to exceed thirty days. The court may, by subsequent order, extend the period of commitment for not to exceed thirty additional days. The court may also order such diagnostic testing without ordering commitment to an

institution. Validity of a sentence must not be challenged on the ground that diagnostic testing was not performed pursuant to this subsection.

6. All sentences imposed must be accompanied by a written statement by the court setting forth the reasons for imposing the particular sentence. The statement must become part of the record of the case.
7. If an offender is sentenced to a term of imprisonment, that term of imprisonment commences at the time of sentencing, unless, upon motion of the defendant, the court orders the term to commence at some other time. (Source: North Dakota Century Code section 12.1-32-02).

13.0503 Procedure for Trial of Infraction – Incidence

1. Except as provided in this subsection, all procedural provisions relating to the trial of criminal cases as provided in the statutes or rules relating to criminal procedure shall apply to the trial of a person charged with an infraction. A person charged with an infraction is not entitled to be furnished counsel at public expense nor to have a trial by jury unless the person may be subject to a sentence of imprisonment under subsection 2 of 13.0501.
2. Except as provided in North Dakota Century Code Title 12.1 or the ordinances of this city, all provisions of law and rules of criminal procedure relating to offenses shall apply to infractions, including, but not limited to, the powers of law enforcement officers, the periods for commencing action and bringing a case to trial, and the burden of proof.
3. Following conviction of an infraction, the offender may be sentenced in accordance with subsection 1 of 13.0502, except that a term of imprisonment may not be imposed except in accordance with subsection 3 of 13.0506 or subsection 2 of 13.0501.
4. If an ordinance provides that conduct is an infraction without specifically including a requirement of culpability, no culpability is required.
5. Except as provided in this Section, Sections 13.0501 or 13.0502, or as the context may otherwise indicate differentiation between the infraction classification and the offense classification, the term “offense” refers to all violations of the ordinances of this city including infractions. (Source: North Dakota Century Code section 12-32-03.1)

13.0504 Special Sanction for Organizations

When an organization is convicted of an offense, the court may, in addition to any other sentence which may be imposed, require the organization to give notice of its conviction to the persons or class of persons ostensibly harmed by the offense, by mail or by advertising in designated areas or by designated media or otherwise. (Source: North Dakota Century Code section 12.1-32-03).

13.0505 Factors to be Considered in Sentencing

The following factors, or the converse thereof where appropriate, while not controlling the discretion of the court, shall be accorded weight in making determinations regarding the desirability of sentencing an offender to imprisonment.

1. The defendant’s criminal conduct neither caused nor threatened serious harm to another person or his property.
2. The defendant did not plan or expect that his criminal conduct would cause or threaten serious harm to another person or his property.

3. The defendant acted under strong provocation.
4. There were substantial grounds which, though insufficient to establish a legal defense, tend to excuse or justify the defendant's conduct.
5. The victim of the defendant's conduct induced or facilitated its commission.
6. The defendant has made or will make restitution or reparation to the victim of his conduct for the damage or injury, which was sustained.
7. The defendant has no history of prior delinquency or criminal activity, or has led a law-abiding life for a substantial period of time before the commission of the present offense.
8. The defendant's conduct was the result of circumstances unlikely to recur.
9. The character, history and attitudes of the defendant indicate that he is unlikely to commit another crime.
10. The defendant is particularly likely to respond affirmatively to probationary treatment.
11. The imprisonment of the defendant would entail undue hardship to himself or his dependents.
12. The defendant is elderly or in poor health.
13. The defendant did not abuse a public position of responsibility or trust.
14. The defendant cooperated with law enforcement authorities by bringing other offenders to justice, or otherwise cooperated.

Nothing herein shall be deemed to require explicit reference to these factors in a presentence report or by the court at sentencing. (Source: North Dakota Century Code section 12.1-32-04).

13.0506 Imposition of Fine – Response to Non-Payment

1. The court, in making a determination of the propriety of imposing a sentence to pay a fine, shall consider the following factors:
 - a. The ability of the defendant to pay without undue hardship;
 - b. Whether the defendant, other than a defendant organization, gained money or property as a result of commission;
 - c. Whether the sentence to pay a fine will interfere with the defendant's capacity to make restitution;
 - d. Whether a sentence to pay a fine will serve a valid rehabilitative purpose.
2. The court may allow the defendant to pay any fine or costs imposed in installments. When a defendant is sentenced to pay a fine or costs, the court shall not impose at the same time an alternative sentence to be served in the event that the fine or costs are not paid.
3. If the defendant does not pay any fine or costs imposed, or make any required partial payment, the courts, upon motion of the prosecuting attorney or on its own motion, may issue an order to show cause why the defendant shows that his default is excusable, the

court may, after hearing, commit him to imprisonment until the fine, or costs or both, are fully paid or discharged by labor as provided in North Dakota Century Code section 40-18-12.

The court may not commit a person under this section when the sole reason for his nonpayment is his indigence. An order of commitment under this subsection shall not be for a period in excess of thirty (30) days. As used in this subsection, "fine" does not include a fee established pursuant to section 9.2208 of these ordinances. (Source: North Dakota Century Code sections 12.1-32-05 and 40-11-12)

13.0507 Incidents of Probation

1. Unless terminated as provided in subsection 2, the period during which a sentence to probation shall remain conditional and be subject to revocation is two (2) years.
2. The court may terminate a period of probation and discharge the defendant at any time earlier than that provided in subsection 1 if warranted by the conduct of the defendant and the ends of justice.
3. Notwithstanding the fact that a sentence to probation can subsequently be modified or revoked, a judgment, which includes such a sentence, constitutes a final judgment for all other purposes. (Source: North Dakota Century Code section 12.1-32-06.1)

13.0508 Conditions of Probation – Revocation

1. The conditions of probation must be such, as the court in its discretion deems reasonably necessary to ensure that the defendant will lead a law-abiding life or to assist the defendant to do so. The court shall provide as an explicit condition of every probation that the defendant not commit another offense during the period for which the probation remains subject to revocation.
2. When imposing a sentence to probation, the court may impose such conditions as it deems appropriate, and may include any one or more of the following:
 - a. Work faithfully at a suitable employment or faithfully pursue a course of study or of vocational training that will equip the defendant for suitable employment;
 - b. Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose;
 - c. Attend or reside in a facility established for the instruction, recreation or residence of persons on probation;
 - d. Support the defendant's dependents and meet other family responsibilities;
 - e. Make restitution or reparation to the victim of the defendant's damage or injury, which was sustained, or perform other reasonable assigned work. When restitution, reparation or assigned work is a condition of probation the court shall proceed as provided in Section 13.0509;
 - f. Pay a fine imposed after consideration of the provisions of Section 13.0506;
 - g. Refrain from excessive use of alcohol, or any use of narcotics or of another dangerous or abusable drug without a prescription.
 - h. Permit the probation officer to visit the defendant at reasonable times at the defendant's home or elsewhere.

- i. Remain within the jurisdiction of the court, unless granted permission to leave by the court or the probation officer.
 - j. Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.
 - k. Report to a probation officer at reasonable times as directed by the court or the probation officer.
 - l. Submit to a medical examination or other reasonable testing for the purpose of deterring the defendant's use of narcotics, marijuana, or other controlled substance whenever required by a probation officer.
 - m. Refrain from associating with known users or traffickers in narcotics, marijuana, or other controlled substances.
 - n. Submit the defendant's person, place of residence, or vehicle to search and seizure by a probation officer at any time of the day or night, with or without a search warrant.
 - o. Serve a term of imprisonment of up to one-half of the maximum term authorized for the offense of which the defendant was convicted or one year, whichever is less.
 - p. Reimburse the costs and expenses determined necessary for the defendant's adequate defense when counsel is appointed for the defendant. When reimbursement of indigent defense costs and expenses is imposed as a condition of probation, the court shall proceed as provided in subsection 4 of section 12.1-32-08 of the North Dakota Century Code.
 - q. Provide community service for the number of hours designated by the court.
 - r. Refrain from any subscription to, access to, or use of the Internet.
3. When a defendant is sentenced to probation, the defendant must be given a certificate explicitly setting forth the conditions on which the defendant is being released.
 4. The court, upon notice to the probationer and with good cause, may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the period for which the sentence remains conditional. If the defendant violates a condition at any time before the expiration or termination of the period, the court may continue the defendant on the existing probation with or without modifying or enlarging the conditions, or may revoke the probation and impose any other sentence that was available under Section 13.0502 at the time for the initial sentencing.
 5. Jurisdiction over a probationer may be transferred from the court that imposed the sentence to another court of this state, with the concurrence of both courts. Retransfer of jurisdiction may also occur in the same manner. The court to which jurisdiction has been transferred under this subsection may exercise all powers permissible under this chapter over the defendant. (Source: North Dakota Century Code section 12.1-32-07).

13.0509 Restitution or Reparation – Procedures

1. Before imposing restitution or reparation as a sentence or condition of probation, the court shall hold a hearing on the matter with notice to the prosecuting attorney and to the

defendant as to the nature and amount thereof. At or following the hearing, the court shall make determinations as to:

- a. The reasonable damages sustained by the victim or victims of the criminal offense, which damages are limited to those directly related to the criminal offense and expenses actually incurred as a direct result of the defendant's criminal action;
- b. The ability of the defendant to restore the fruits of the criminal action or to pay monetary reparations, or to otherwise take action to restore the victim's property;
- c. The likelihood that attaching a condition relating to restitution or reparation will serve a valid rehabilitation purpose in the case of the particular offender considered.

The court shall fix the amount of restitution or reparation, which may not exceed an amount the defendant can or will be able to pay, and shall fix the manner of performance of any condition or conditions of probation established pursuant to this subsection. Any payments made pursuant to court order must be deducted from damages awarded in a civil action arising from the same incident. An order that a defendant make restitution or reparation as a sentence or condition of probation may, unless the court directs otherwise, be filled, transcribed, and enforced by the person entitled to the restitution or reparation in the same manner as civil judgments rendered by the courts of this state may be enforced.

2. The court may order the defendant to perform reasonable assigned work as a condition of probation, which assigned work need not be related to the offense charged, but must not be solely for the benefit of a private individual other than the victim. (Source: North Dakota Century Code section 12.1-32-08).

13.0510 Merger of Sentences – Sentencing for Multiple Offenses

1. Unless the court otherwise orders, when a person serving a term of commitment is committed for another offense or offenses, the shorter term or the shorter remaining term shall be merged in the other term. When a person on probation or parole for an offense committed in this city is sentenced for another offense or offenses, the period still to be served on probation or parole shall be merged in any new sentence of commitment or probation. When the court merges sentences under this subsection it shall forthwith furnish the penal facility in which the defendant is confined under sentence with authenticated copies of its sentence, which shall cite the sentences being merged. If the court has imposed a sentence, which is merged pursuant to this subsection, it shall modify such sentence in accordance with the effect of the merger.
2. A defendant may not be consecutively sentenced to more than one year. (Source: North Dakota Century Code section 12.1-32-11).

ARTICLE 6 – Penalties

13.601 Penalty for Violation of Chapter

Any person who is convicted of violating or of failing to comply with any of the provisions of the ordinances contained in this chapter for which a penalty is not specifically set forth, may be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not to exceed thirty (30) days, or both. (Source: North Dakota Century Code Section 40-05-06)

CHAPTER FOURTEEN

FRANCHISE

ARTICLE 1 – Grant of Franchises

- 14.0101 Power to Grant
- 14.0102 Compliance with Applicable Laws and Ordinances
- 14.0103 Indemnification
- 14.0104 Insurance
- 14.0105 BEK
- 14.0106 MDU

CHAPTER FOURTEEN
FRANCHISE

ARTICLE 1 – Grant of Franchises

14.0101 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))

14.0102 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.

14.0103 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.

14.0104 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 five hundred thousand dollars (\$500,000.00) 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)

ORDINANCE NO. ~~1075~~ 14.0105

AN ORDINANCE GRANTING TO BEK COMMUNICATIONS COOPERATIVE, OF STEELE, NORTH DAKOTA, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE AND RIGHT TO USE AND OCCUPY THE STREETS, ALLEYS, AND OTHER PUBLIC PLACES OF WISHEK, NORTH DAKOTA, FOR THE PURPOSE OF CONSTRUCTING, MAINTAINING AND OPERATING A VOICE, VIDEO AND DATA COMMUNICATIONS SYSTEM WITHIN SAID CITY.

Be it ordained by the City Council of Wishek, North Dakota:

Section 1: That BEK Communications Cooperative, a corporation, its successors and assigns, are hereby granted the non exclusive right to use and occupy the streets, alleys, and other public places of the City of Wishek, North Dakota, for a term of twenty (20) years from the effective date hereof, for the purpose of constructing, maintaining and operating a voice, video and data communications system within said City.

Section 2: That Grantee shall operate and maintain an efficient communications system subject to and operated solely in accordance with all applicable North Dakota and Federal Laws and Regulations.

Section 3: That the rights herein granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon said City.

Section 4: During the construction, maintenance or enlargement of any part of said telecommunications system, said Grantee shall not unnecessarily impede or block travel in said streets and highways in said City and shall leave all streets, highways, alleys, sidewalks, curbs, lanes and public places and all grounds disturbed by said construction in good condition up the completion of said work.

The City reserves the right to make and adopt, and the rights and privileges hereby granted shall at all times be and remain subject to such reasonable regulations of a police nature as it may deem necessary for the best interests of the City, but the City will not by any such regulations or by acts of its own or agents do anything to prevent or interfere with the Grantee carrying on its business in accordance with the franchise hereby granted.

Section 5: In case of disturbance of any street, sidewalk, alley, public way, or paved area, the Grantee shall, at its own cost and expense and in manner approved by the City Public Works Superintendent or Engineer, replace and restore such street, sidewalk, alley, public way, or paved areas in as good a condition as before the work involving such disturbance was done. Grantee shall not be required to pay a fee for street openings.

CITY PERMIT

CITY Wishek

JO _____

WO # 1020

BEK COMMUNICATIONS COOPERATIVE OF STEELE, NORTH DAKOTA, hereinafter called the Applicant, is hereby granted permission to install and maintain the following described facilities on streets, alleys and city property, as shown on the plans attached hereto and made a part hereof: Buried communication line encroaching on city property as indicated on the attached map.

INSTALLATION AND MAINTENANCE: Installation and maintenance of said facilities of streets, alleys and city property shall conform to the following provision:

(1) Upon construction, maintenance, relocation or removal of said facilities, on any streets, alleys, and city property shall be removed and the disturbed areas restored to original condition, including the reseeding thereof where necessary. Trenches dug within streets, alleys and city property shall be back filled and compacted to a density equal to that of the adjacent undisturbed soil.

TERMS AND CONDITIONS: Installation and maintenance of said facilities on streets, alleys, and city property shall be subject to the following terms and conditions:

(A) Installation, maintenance, relocation and removal of said facilities on streets, alleys, and city property shall be done in a manner satisfactory to and subject to supervision by, the city board and for the city street department.

(B) The Wishek City shall not be liable for damage to said facilities resulting from reconstruction or maintenance of the city. Applicant shall hold the city harmless for injury to persons or damage to property resulting from the location of said facilities on highway streets, alleys and city property.

(C) Applicant shall repair or replace street structures and appurtenances and any existing facilities located on, over or under streets, alleys, and city property, which may be damaged as a result of the installation and maintenance of said facilities on streets, alleys, and city property.

(D) Applicant shall promptly remove said facilities from streets, alleys, and city property or shall relocate or adjust said facilities as its sole cost and expense when requested to do so by the City.

DATED THIS 6th DAY OF Feb, 06.

CITY

Leo Silbauer
Chairman, City Board

APPROVAL RECOMMENDED

AK Paulus
City Engineer/Auditor

BEK COMMUNICATIONS COOPERATIVE

ATTEST:

WITNESSED BY:

Senja Schumacher

BY Jeff Symon
Resident Engineer

Section 6: During the term of the rights granted hereunder, the Grantee shall pay a video franchise fee as compensation to the Municipality for the rights granted herein, a sum equal to three percent (3%) of the total gross receipts of the subscription video programming; "Gross Receipts" shall consist of those revenues derived from the monthly charges paid by subscribers for basic and premium video programming. Gross receipts shall not include revenues received as installation charges, and fees for reconnections, inspection, repairs or modifications of any installation, and all State and Federal Taxes relating thereto. As per Federal Communications Commission rules, the video franchise fee will be listed as a separate line item on subscriber bills.

In no event shall any of such payments be payable until the system is actually in operation with paying subscribers, but there shall be no minimum number of subscribers hereunder. The payments that Grantee makes to the Municipality shall be in lieu of any other occupation tax, license tax, or similar levy by the Municipality and shall be paid on a monthly basis based on the current month's gross subscriber revenues from subscription video programming.

Section 7: That this ordinance shall be in full force and effect when it shall have been enacted according to law and when the provisions hereof shall have been accepted in writing by said BEK Communications Cooperative and such acceptance filed with the City Auditor.

First reading on October 3, 2005

Second reading and passage on November 7, 2005

CITY OF WISHEK

By: [Signature]
Title:

Attest: [Signature]
Title:

STATE OF NORTH DAKOTA)
CITY OF WISHEK)

The foregoing instrument was filed for record in my office on the 15th day of November, 2005 at 10:40 A.M., and was recorded in the Ordinance Book on page 142 thereof.

[Signature]
S.K. Paulus, City Auditor

Ordinance No. _____

Page 2

14.0106
ORDINANCE NO. ~~1083~~

AN ORDINANCE GRANTING TO MONTANA-DAKOTA UTILITIES CO., A DIVISION OF MDU RESOURCES GROUP, INC., A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE AND RIGHT TO CONSTRUCT, MAINTAIN AND OPERATE, WITHIN AND UPON, IN AND UNDER THE STREETS, ALLEYS AND PUBLIC GROUNDS OF THE

City of Wishek

AN ELECTRIC DISTRIBUTION SYSTEM FOR TRANSMITTING AND DISTRIBUTING ELECTRIC ENERGY FOR PUBLIC AND PRIVATE USE.

BE IT ORDAINED BY

SECTION I. For convenience, herein, said municipal corporation is designated and referred to as "Municipality" and Montana-Dakota Utilities Co. is designated and referred to as "Grantee." Any reference to either includes their respective successors and assigns.

SECTION II. There is hereby granted to Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., a corporation, Grantee, its successors and assigns, subject to the limitations herein stated, the right and franchise to occupy and use the streets, alleys and public grounds of the Municipality as now, or hereafter constituted, for the purpose of constructing, maintaining, and operating, within, upon, in and under the same, an electric distribution system for transmitting and distributing electric energy for public and private use.

SECTION III. Grantee shall maintain an efficient distribution system for furnishing electric energy for public and private use at such reasonable rates as may be approved by the Public Service Commission of the state wherein said Municipality is located and under such orders, rules or regulations as may be issued by any federal or state agency having jurisdiction thereof.

SECTION IV. This franchise shall not be exclusive and shall not be construed to prevent the Municipality from granting to any other party the right to use the streets, alleys, and public grounds of the Municipality for like purposes.

SECTION V. The Municipality reserves any right it may have, under its police power, or otherwise, to control or regulate the use of said streets, alleys, and public grounds by Grantee.

SECTION VI. Grantee shall indemnify and save and hold the Municipality harmless from any loss or damage due to the construction, installation, and maintenance of its distribution system, and its use of the streets, alleys, and public grounds of the Municipality.

SECTION VII. Grantee shall have the right to assign this franchise to any party, or corporation, but all obligations of Grantee hereunder shall be binding upon its successors and assigns.

SECTION VIII. Within thirty (30) days after Grantee is notified of passage and final approval of this Ordinance, Grantee shall file with the clerk or auditor of the Municipality its written acceptance of this franchise.

SECTION IX. This franchise shall continue and remain in full force and effect for a period of twenty (20) years from the date upon which this ordinance shall become effective as provided by law.

Passed the 5th day of Sept., 2006.

Approved this 5th day of Sept., 2006.

ATTEST: H. Paulus
Auditor

Victor J. Scherer
Mayor-Chairman

(Seal of the Municipality)
NDE

ACCEPTANCE OF FRANCHISE

MONTANA-DAKOTA UTILITIES CO., a Division of MDU Resources Group, Inc., a corporation, hereby accepts the terms and conditions of that certain Ordinance No. 1087 enacted by the governing body of the City of Wishak, McIntosh County, North Dakota, the same being an ordinance granting to said Company, its successors and assigns, a franchise to construct, maintain and operate, within and upon, in and under the streets, alleys and public grounds of said City, an electric distribution system for transmitting and distributing electric energy for public and private use, which ordinance was duly and finally passed, adopted and approved by the governing body of said City on the 5th day of September, 2006.

Dated this 1st day of November, 2006.

MONTANA-DAKOTA UTILITIES CO.
A Division of MDU Resources Group, Inc.

By Bruce Lindahl
President

ATTEST:

Douglas W. Schulz
Asst. Secretary

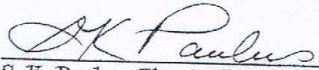
I, the undersigned, the duly elected, qualified and acting Auditor of the City of Wishak, State of North Dakota, do hereby certify that I received the within Acceptance of Franchise on this 1st day of November, 2006, and on said date duly filed the same in my office.

H. Paulus
Auditor

(SEAL OF MUNICIPALITY)

STATE OF NORTH DAKOTA)
)
COUNTY OF MCINTOSH)

The foregoing instrument was filed for record in my office on the ^{24th}~~18th~~ day of
September, 2006 at 9:30 a.m, and was recorded in the Ordinance Book on page 167
thereof.


S .K. Paulus, City Auditor

CHAPTER FIFTEEN

BUILDING CODE

ARTICLE 1 – General Building Code

15.0101 Adoption of Code

CHAPTER FIFTEEN

BUILDING CODE

15.0101 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. 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 and all subsequent amendments are hereby incorporated by reference in this ordinance. (Source: North Dakota Century Code chapter 54-21.3)

CHAPTER SIXTEEN

ELECTRICAL CODE

ARTICLE 1 - Adoption of Electrical Code

16.0101 Electrical Code Adopted

CHAPTER SIXTEEN

ELECTRICAL CODE

ARTICLE 1 – Adoption of Electrical Code

16.0101 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, and all subsequent amendments are hereby incorporated by reference in this ordinance (See North Dakota Century Code section 43-09-21)

CHAPTER SEVENTEEN

PERSONNEL POLICIES

ARTICLE 1 – Personnel Policies and Procedures

17.0101 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.

CHAPTER EIGHTEEN

LODGING TAX

ORDINANCE NUMBER 1084 AN ORDINANCE ENACTING A CITY LODGING TAX

Whereas, the City Council of the City of Wishek, North Dakota, wishes to enact a city lodging tax on the gross receipts of lodging within the City of Wishek, be it ordained as follows:

Section 1. Definitions.

1. "Gross receipts" shall mean receipts of retailers for the leasing and renting, for periods of one month, of hotel, motel, or tourist court accommodations within the corporate limits of the City of Wishek..
2. "Retailer" shall mean any person, firm or corporation in the business of leasing or renting hotel, motel or tourist court accommodations for periods of thirty (30) or less consecutive calendar days or one month.
3. "Visitor's Promotion Fund" shall be comprised of the funds created by collection of the two percent (2%) tax pursuant to Section 40-57.3-01 of the North Dakota Century Code, less any amount which may be retained by the state for the collection of such tax.

Section 2. Tax on Gross Receipts.

A tax of two percent (2%) pursuant to Section 40-57.3-01 of the North Dakota Century Code is hereby imposed upon gross receipts as defined herein. Said tax shall be in addition to the state sales tax on retail accommodations provided in Chapter 57-39.2 of the North Dakota Century Code.

Section 3. Collection of Tax.

The tax hereby imposed be due and payable at the same time the retailer is required to file a return under Chapter 57-39.2 of the North Dakota Century Code, and shall be collected and administrated by the State Tax Commissioner in accordance with the provisions of state law.

Section 4. Tax Receipts Utilization.

There is hereby created a fund to be known as the Visitor's Promotion Fund, and all taxes collected pursuant to the two percent (2%) tax pursuant to Section 40-57.3-01 of the North Dakota Century Code, less the costs of administration by the State Tax Commissioner as required by law, shall be placed in this fund and utilized for the purpose to promote, encourage and attract visitors to come to the City of Wishek and use the travel and tourism facilities within the City.

Section 5. Establishment of a Visitors Committee.

There is hereby created a Visitor's Committee, which shall serve as an advisory committee to the City Council in administering the proceeds from the taxes available to the City under this ordinance. The committee shall be comprised of five members, who shall have terms of four (4) years, except that two of those initially appointed shall be appointed for an initial term of two (2) years. Vacancies shall be filled in the same manner as the initial appointment. The members appointed to the Visitor's Committee by the City Council shall come from the following groups:

1. One member of the City Council.
2. Two members who are residents of the City of Wishek.
3. Two members who are members of the Wishek Association of Commerce.

Should the City Council not find a sufficient number of volunteers from the above groups to fill the committee, the City Council shall be free to appoint any person to fill that position or positions.

The committee each year shall prepare a proposed budget for the expenditure of the Visitor's Promotion Fund and present that budget to the City Council.

Section 6. Budget.

The proposed budget of the Visitor's Committee shall be presented to the City Council, which shall have the authority to approve the final budget for use of the funds in the Visitor's Promotion Fund each year. No funds shall be expended from the Visitor's Promotion Fund for a particular year until that budget has been approved by the City. After approval of the budget, the City Auditor may dispense funds from the Visitor's Promotion Fund in accordance with the budget adopted by the Council.


Section 7. Failure to Comply - Penalty.

The penalties and liabilities provided in Sections 57-39.2-18 and 57-39.2-16.1 of the North Dakota Century Code shall apply to the filing of returns and the administration of the taxes imposed under this ordinance.

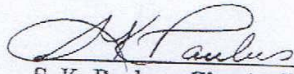
Section 8. Effective Date.

This ordinance shall take effect on January 1, 2007.

Approved this 3rd day of October, 2006.

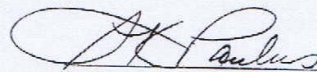

Victor Vilhauer - Mayor

Attest:


S. K. Paulus - City Auditor

STATE OF NORTH DAKOTA)
)ss.
COUNTY OF MCINTOSH)

The foregoing instrument was filed for record in my office on the ^{9th} ~~15th~~ day of September, 2006 at 9:30 AM, and was recorded in the Ordinance Book on page 169 thereof.


S.K. Paulus - City Auditor

APPENDIX

COMMENTS

Section

1.0104

In most cases, the fine or penalty for the violation of City ordinances, regulations, or resolutions shall not exceed one thousand dollars, and the imprisonment shall not exceed thirty days for one offense. For violation of ordinances regulating the operation or equipment of motor vehicles or regulating traffic, see North Dakota Century Code sections 39-06.1-05, 39-06.1-06, and 40-05-06.

In 1972, the United States Supreme Court expanded the Sixth Amendment right to counsel of Gideon V. Wainwright to all cases in which the defendant could be imprisoned if found guilty of the charge against. See, Argersinger v. Hamlin, 407 US 25. As a result of this decision, municipalities are now required to provide free legal counsel to all indigent violators of municipal ordinances, if the penalty that can be imposed for such violation is imprisonment.

1.0201

The public is entitled to have the City governing body meet at the times specified by statute or by legal ordinance so as to prevent the City governing body from doing business in any secret meetings. (See North Dakota Century Code sections 40-06-02 and 44-04-19 to 44-04-21)

2.0101

Rules of Construction

In the construction of this code and of all ordinances, it is the intention of the drafters that the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the City governing body:

1. General Rule. All words and phrases shall be construed and understood according to the common and approved usage of the language, except technical words and phrases and such others as may have acquired a peculiar and appropriate meaning.

2. Gender – Singular and Plural. Every word in any code provision or ordinance using the masculine gender includes females as well as males; and every word using the singular number only including several persons or things as well as to one person or thing; and every word importing the plural includes the singular, except when a contrary intention plainly appears.

3. Tenses. The use of any verb in the present tense shall include the future when applicable.

4. Joint Authority. All words purporting to give a joint authority to three or more City officers or other persons shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared in the law giving the authority.

5. Delegation of Authority. Whenever a provision requires the head of a department or other officer of the City to do some act or perform some duty, it shall be construed to authorize subordinates to do the required act or to perform the required duty unless the terms of the provision designate otherwise.

6. Computation of Time. The time which an act is to be done as provided in any code provision or ordinance or in any order issued pursuant to any ordinance, when expressed in days, shall be computed by excluding the first day and including the last, except that if the first day be a Sunday or a holiday it shall be excluded; and when any such time is expressed in hours the whole of Sunday, from midnight, shall be excluded.

7. Overlapping Provisions. Where any provision of this Code imposes greater restrictions upon the subject matter than any general provisions imposed by this Code, the provision imposing the greater restriction or regulation shall be applicable.

For rules of interpretation as to ordinance construction, refer to North Dakota Century Code chapter 1-02.

3.0108 The requirements for sidewalks (length, width and distance) are provided for example only. Local requirements should be utilized when adopting or drafting this ordinance.

4.0401 Incorporation by reference of a national fire code is a valid exercise of municipal authority, as long as such incorporation is prospective. For more information about national fire codes, contact the state fire marshal.

8.0101 Business license fees established by municipalities are imposed as an incident of the municipal police power to protect the health, safety, morals and general welfare of the populace. (See North Dakota Century Code chapter 40-05) Such fees are not in and of themselves revenue-raising devices, but rather are regulatory devices to allow for the control of businesses and occupations which have potentially harmful or detrimental effects on the general public.

8.0103 The granting or denying of a business license is a discretionary rather than a ministerial
8.0610 act and as such cannot be delegated by the City governing body.

9.0503 An ordinance altering state speed limits within a city does not become effective until such speed limits are properly posted as required by North Dakota Century Code section 39-09-03.