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SALARY ORDINANCE

CHAPTER ONE
GOVERNMENT ORGANIZATION

ARTICLE 1 - Jurisdiction

1.0101 Over Persons and Property

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

1.0102 Defining City Limits

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

1.0103 Division of City into Precincts

There shall be one precinct within the City which shall be located at Halliday City Hall.

1.0104 City Fines and Penalties Limited

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

ARTICLE 2 - Governing Body - Board of City Commissioners

1.0201 Regular Meetings

The Board of City Commissioners shall meet regularly at the City Hall on the second Monday of each month at the hour of 6:00 pm unless some other time and place shall be specifically fixed by the board. The board shall meet in addition thereto, as often as required by section 40-09-11 of the North Dakota Century Code.

1.0202 Special Meetings

Special meetings may be called at any time by the president or any two (2) members of the governing body to consider matters mentioned in the call of such meetings. Written notice of any special meeting shall be given to each member of the governing body at least twenty-four (24) hours before the time of the meeting. If it is necessary to hold a special meeting within 24 hours, each member must sign a written waiver of the 24 hour notice and the local public news outlet must receive the same amount of notice given to members of the governing body.

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

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

1.0204 Quorum

The provisions of section 40-06-03 of the North Dakota Century Code and all subsequent amendment are hereby incorporated by reference in this ordinance. A majority of the members of the governing body of a municipality shall constitute a quorum to do business but a smaller number may adjourn from time to time. The governing body may compel the attendance of absentees under such penalties as may be prescribed by ordinance, and may employ the police of the municipality for that purpose.

1.0205 Reconsidering or Rescinding Votes at Special Meeting

The provisions of section 40-06-04 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. No vote of the governing body of a municipality shall be reconsidered or rescinded at a special meeting unless there is present at such special meeting as large a number of members as were present when such vote was taken.

1.0206 Rules and Order of Business

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

ARTICLE 3 - Elective Officers

1.0301 Board of City Commissioners

The governing body shall be the Board of City Commissioners which is composed of the president of the Board of City Commissioners and four city commissioners. The president and four city commissioners shall be elected as provided by law.

1.0302 Commissioners - Terms of Office - Terms of Members of First Board - Resignation

Each commissioner and the president of the Board of City Commissioners shall hold office for four years from and after the date of election, and until a successor has been duly elected and qualified. The president and any other member of the Board may resign from office by filing a written resignation with the City Auditor, who shall submit the resignation to the Board of City Commissioners at its next regular meeting, or at a special meeting called for consideration of such resignation. The resignation is effective upon its acceptance by the Board.

1.0303 President of Board as Executive Officer - Duties - No Veto Power

The provisions of section 40-09-08 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. The president of the Board of City Commissioners shall be the executive officer of the City and shall see that all the laws of the City are enforced. The president shall have the right to vote as a member of the board, but shall not have veto power.

1.0304 Vice President and Acting President of Board - Powers to Act

The provisions of section 40-09-09 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. At the first meeting of the board after each biennial election, one

of its own members shall be elected vice president. The vice president shall perform all the duties of the office of president in the absence or inability of the president to act. In the absence or inability to act of both the president and the vice president, the board shall elect one of its members as acting president, who shall have all the powers and perform all the duties of the president during his absence or disability.

1.0305 Vacancies in Board - How Filled

The provisions of section 40-09-10 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. If a vacancy occurs in the office of city commissioner or president of the Board of City Commissioners, the board may call a special City election to fill such vacancy for the unexpired term, or may, after fifteen days from the date of such vacancy appoint a person to fill such vacancy until the next City election, at which election the unexpired term shall be filled. Upon petition of five percent of the electors, as determined by the total number of votes cast in the City in the last general election, the commission shall call a special City election fill a vacancy occurring more than six months prior to the next City election, provided such petition has been submitted within fifteen days of the date of such vacancy.

1.0306 Departments of Administration of City Divided Among Commissioners - Duties

The provisions of section 40-09-12 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance.

The Board of City Commissioners, by a majority vote of all the members thereof, shall designate from among its members:

1. A police and fire commissioner who shall have under that commissioner's special charge the enforcement of all police regulations of the City and the general supervision of the fire department of the City;
2. A commissioner of streets and improvements who shall have under that commissioner's special charge the supervision of the streets and alleys of the City and who shall be charged with responsibility for the lighting, cleaning and sanitary condition of the streets and alleys and with the enforcement of all rules and regulations relating thereto, and with the preservation of the health of the inhabitants of the City. That commissioner shall have under that commissioner's special charge the supervision of all public improvements and the conditions of all grants of franchises or privileges are complied with faithfully and performed;
3. A waterworks and sewerage commissioner who shall have under that commissioner's special charge the waterworks and sewerage department of the City and who shall see to the enforcement of all regulations with respect to said departments and all revenue pertaining thereto; and
4. A commissioner of finance and revenue who shall have under that commissioner's special charge the enforcement of all laws for the assessment and collection of taxes of every kind and the collection of all revenues belonging to the City, from whatever source the same may be derived, and who shall examine into and keep informed as to the finances of the City.

The duties assigned to the various members of the board by this section may be otherwise distributed by a majority vote of the board's members.

1.0307 Accounts Audited by Respective Commissioners - Approved by Board

The provisions of section 40-09-13 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. The commissioner who is the head of each department shall audit all accounts against it, but before payment the accounts shall be acted upon and approved by at least three members of the Board of City Commissioners. Approval by at least three (3) members of the Board of City

Commissioners shall be recorded in the record of the board and this shall be sufficient to indicate approval without requiring the approving members to sign or initial the voucher or order for payment of the account.

1.0308 Rules and Regulations Governing Departments and Agencies of City Made by Board

The provisions of section 40-09-14 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. The Board of City Commissioners shall have the sole authority to pass and adopt rules and regulations concerning the organization, management and operation of all the departments of the City and the other agencies created by it for the administration of the City's affairs.

1.0309 Board May Summon and Compel Attendance of Witnesses and Books - Punish for Contempt - Process

The provisions of section 40-09-16 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. Whenever it is necessary for the more effective discharge of its duties, the Board of City Commissioners may summon and compel the attendance of witnesses and the production of books and papers before it. The board may punish for contempt of the board with the same fines and penalties as a district judge may inflict for contempt of the district court. All process necessary to enforce the powers conferred by this section shall be signed by the president of the board, attested by the City Auditor and served by any member of the police force of the City.

1.0310 Restrictions on Members of Board

The provisions of section 40-09-17 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance.

No member of the Board of City Commissioners shall:

1. Be eligible to any other office the salary of which is payable out of the City treasury;
2. Hold any other office under the City government; and
3. Hold a position of remuneration in the employment of the City.

ARTICLE 4 - Elective Officers Other Than Governing Body

1.0401 Municipal Judge

There shall be elected each four years a Municipal Judge who shall hold office until a successor is elected and qualified. The Municipal Judge shall perform all the duties prescribed by law and the ordinances of this City. The Municipal Judge shall receive an annual salary set from time to time by resolution of the City Commission as full compensation for all services rendered. The salary shall not be reduced during his term of office.

1.0402 Report to City Auditor

It shall be the duty of the Municipal Judge to make a full itemized report under oath of all fees, fines, costs, forfeiture, and any other monetary consideration collected by the court to the City Auditor at the close of each month. The report shall be accompanied by all monetary consideration collected and show the actions in which the fees were collected. Until such report has been filed with the City Auditor, no salary shall be paid the judge for such work.

1.0403 Court Hours

The Municipal Judge shall be in attendance at municipal court for the transaction of any business that may come before the court and shall devote the time necessary to handle and dispose of the business coming before him.

1.0404 Duties of Municipal Judge

Additional duties of the Municipal Judge shall be as provided by chapter 40-18 of the North Dakota Century Code and all amendments.

ARTICLE 5 - Appointive Offices

1.0501 Appointive Officers - Right to Dispense with Offices – Hired Positions

At the first meeting after the qualification of its members, or as soon thereafter as possible, the Board of City Commissioners may appoint officers from the following list, as necessary:

1. A treasurer;
2. An auditor;
3. An attorney;
4. One or more assessors;
5. A city health officer who shall be a physician;
6. A Street Superintendent;
7. A Fire Chief;
8. A Chief of Police;
9. One or more policemen;
10. A City Engineer;
11. A board of public works;
12. Such other officers or boards as the Board of City Commissioners may deem necessary.

The Board of City Commissioners may, by a majority vote, dispense with any appointive office, and provide that the duties thereof shall be performed by other officers or boards, by the Board of City Commissioners or by a committee or committees thereof.

The positions of Public Works Superintendent and City Auditor shall be hired positions which will not be subject to term restrictions. The Public Works Superintendent shall assume all duties of the Water and Sewer Superintendent and the Street Superintendent as defined in this Ordinance, and will additionally be responsible for any requirements of this Ordinance related to garbage.

1.0502 Term of Appointive Officers

The term of all appointive officers shall begin on July 1 after the regular election of city commissioners and shall continue for a term of two years until their successors have been appointed and qualified. Any person appointed to fill a vacancy shall hold his office for the unexpired term unless appointed as an "acting" officer. An acting officer shall serve at the pleasure of the governing body. Before entering upon the duties of their office, appointed officers shall take the oath and give the bond required by law.

1.0503 Appointive Officers - Removal Upon Hearing - Suspension Appointment and Removal of Temporary Officer

The provisions of section 40-15-07 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. Any person appointed to any office of a City operating under the commission system of government and any employee of the City may be removed by a majority vote of all the members of the Board of City Commissioners, but no officer or employee shall be removed except for cause and unless charges are preferred against him and he is accorded an opportunity to be heard in his own defense. Within ten days after charges are filed against any such person in the office of the City Auditor, the board shall proceed to hear and determine the case upon its merits. The president of the Board of City Commissioners, or the board, by a majority vote of its members, may suspend any officer or employee against whom charges have been preferred until the disposition of the charges. The president may appoint a person to fill any vacancy temporarily until charges against the incumbent of such office have been disposed of. Any person appointed by the president without confirmation may be removed by him when he deems it is for the best interests of the City.

1.0504 General Duties of City Auditor

It shall be the duty of the City Auditor to issue the calls for all special meetings of the City Commission when requested to do so by the president or presiding officer or any two (2) members of the City Commission. The City Auditor shall also keep a full and complete record of all meetings of the City Commission and shall keep a book titled as the "Ordinance Book" and shall record therein at length all ordinances of the City. The City Auditor shall also keep a book titled as the "Special Assessment Book" in which all records of special assessments shall be kept. The City Auditor shall report to the City Commission at the end of every month a list of all warrants, interest coupons, bonds or other evidence of indebtedness which may have been redeemed or paid during the month and shall give to the commission a copy of a receipt therefore. The City Auditor shall further handle all correspondence, permits and license and shall do and perform each, every and all duties and things prescribed by statutes of this state or by an ordinance, resolution or proper instruction of the City Commission.

1.0505 General Duties of City Attorney

The City Attorney shall conduct all the law business of the City and of the departments thereof, and shall, when requested, furnish written opinions upon the subjects submitted by the City Commission, or any other department. The City Attorney shall also draft all ordinances, bonds, contracts, leases, conveyances and such other instruments as may be required by the officers of the City, examine and inspect tax and assessment rolls and all other proceedings in reference to the levying and collection of taxes, and perform all other duties prescribed by statutes of the state, or by an ordinance, resolution or proper instruction of the City Commission.

1.0506 General Duties of Other Appointive Officers

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

ARTICLE 6 - Special Provisions Regarding City Officers

1.0601 Bonds of Municipal Officers and Employees

The following officers and employees of the City shall be bonded in the sums as hereinafter set forth:

President of the City Commission

City Administrator

City Auditor

Deputy City Auditor

Municipal Judge

City Assessor

Said officers or employees shall be bonded from the State Bonding Fund in accordance with the provisions of section 40-13-02 and chapter 26.1-21 of the North Dakota Century Code and in such amounts as are set by the laws of the state of North Dakota, the Board of City Commissioners or the Commissioner of Insurance.

1.0602 Oaths of Municipal Officers

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

1.0603 Salaries of City Commissioners

The salary of the President of the City Commission and of the other members of the City Commission shall be set by ordinance within the limitations set by North Dakota Century Code section 40-09-06. This ordinance will be attached to the end of this chapter.

1.0604 Salaries of City Officials and Appointive Officers

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

1.0605 Meals, Lodging, and Mileage - Amount Allowed

Each elective or appointive officer, employee, representative, or agent of this City, or of any of its subdivisions, boards or commissions may make claim and shall upon approval of such claim, be paid as an allowance for meals and lodging while engaged within this State, in the discharge of a public duty away from their normal working and living residence for all or any part of any quarter of a day at the rates specified by state law. Verifications of claims shall not be required for the first three quarters of each day and only a lodging receipt shall be required for the fourth quarter.

Such persons engaged in travel outside of the state shall not claim a sum in excess of that allowed by state law a day for meals and in addition thereto actual lodging expenses. Verification by receipt for such out-of-state travel expense shall be required only for lodging expense claimed. Verification of any other type of expenses not

prescribed by this section shall be by receipt. Mileage expenses shall be reimbursed at the rate provided for under state law for state officials and employees.

Any person filing a false claim with the City for mileage or expenses as herein permitted is guilty of an infraction.

1.0606 Personal Interest in Contract by Public Officer - Prohibited

No contract for the furnishing of supplies to the City, or buying of property from the City shall be entered into by any officer of the municipality, provided, however, that such contracts may be entered into with an officer of the City, if such contract is unanimously approved by other members of the governing body of the City by a finding unanimously adopted by such other members, and entered in the official minutes of the governing body, to be necessary for the reason that the services or property are not otherwise available at equal cost.

1.0607 Retiring Officer to Turn Over Books

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

1.0608 Administrative Policy and Procedure

Each officer shall:

1. Perform all duties required of their office by law or ordinance and such other duties not in conflict as may be required by the governing body.
2. Be immediately responsible to the governing body for the effective administration of their departments and all activities assigned thereto.
3. Keep informed as to the latest practices in their particular field and shall inaugurate with approval of the governing body such new practices as appear to be of benefit to the service and to the public.
4. Submit such reports of activities of their departments as the governing board may request.
5. Be responsible for the proper maintenance of all City property and equipment used in their departments.
6. Establish and maintain records in sufficient detail to furnish all information needed for proper control of department activities and to form a basis for reports to the governing board.
7. Cooperate with other officers, departments and employees.
8. Have power to direct and supervise all department subordinates.
9. Be available during the hours designated by the City governing body.

1.0609 Obstructing a Public Official - Prohibited

Every person who willfully delays or obstructs a public officer in the discharge or attempt to discharge any duty of his office shall be guilty of an infraction. Upon conviction, for a violation of this section, such person shall be fined not more than five hundred dollars (\$500).

ARTICLE 7 - Purchasing and Disposition of Property

1.0701 Competitive Bidding Requirements

All purchase of and contracts for supplies and contractual services with a cost in excess of one hundred thousand dollars (\$100,000) shall be based on competitive bids.

1.0702 Procedure

All supplies and contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed one hundred thousand dollars (\$100,000) shall be purchased from the lowest responsible bidder after due notice inviting proposals. Due notice shall be given by advertising for the sale or purchase of the property or service by giving written notice in the official newspaper of the City for three (3) consecutive weeks and the opening of the bids so received not less than twenty-one (21) days after the first publication thereof. The lowest responsible bidder shall be the lowest best bidder for the project considering past experience, financial condition, past work with the governing body, and other pertinent attributes identified in the advertisement for bids.

1.0703 Open Market Purchases - Emergency

When the City governing body decides by that an emergency requires the immediate purchase of supplies or contractual services, the purchases may be made without competitive bidding.

1.0704 Accounts against City to be in Writing

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

1.0705 Further Verification May be Required

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

1.0706 Conveyance, Sale, Lease or Disposal of Property

Real property belonging to the municipality shall be conveyed, sold, leased or disposed of, only as approved of by a two-thirds vote of all members of the governing body. Personal property shall be conveyed by a majority vote of all members of the governing body. Instruments affecting such conveyance, sale, lease or disposal shall be valid only when duly executed by the president of the Board of City Commissioners and attested by the City Auditor. When the property to be disposed of, whether real property or personal property is estimated, by the governing body of the municipality to be of a value of less than twenty-five hundred dollars (\$2,500), such property may be sold at private sale upon the proper resolution of the governing body. In all other cases, such property may be sold only at public sale or as provided under section 40-11-04.2 of the North Dakota Century Code. Bids for the purchase or lease of real property belonging to the municipality, whether or not advertisement therefore has been made, shall be made directly to the governing body and submitted to the City Auditor, who shall present any and all such bids to the governing body at its next regularly scheduled meeting. When specific statutory provisions contained in the North Dakota Century Code provide for a procedure which is in conflict with this section, governing the conveyance, sale, lease or disposal of real property, this section shall not apply insofar as it is in conflict with such state law. Said statutory procedures include the following:

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

1.0707 Real Property Transfer Requirements

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

ARTICLE 8 - Municipal Elections

1.0801 Qualified Electors in Municipal Elections - Restrictions

The provisions of section 40-21-01 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. Every resident of a municipality who is qualified to vote therein at general elections may vote at all municipal elections held therein.

1.0802 Elections in Commissioned Cities - When Held - Notice, Polls

The provisions of section 40-21-02 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. Biennial municipal elections shall be held on the second Tuesday in June in each even numbered year at such place or places as the Board of City Commissioners shall designate. Ten (10) days' notice of the time and place of holding each election and offices to be filled at such election shall be given by the City Auditor by publication in the official newspaper of the City as provided by section 40-01-09 of the North Dakota Century Code. The polls shall be opened and closed as provided by state law for the opening and closing of polls at primary, general and special elections.

1.0803 Designation of Polling Places for Municipal Elections

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

1.0804 Compensation of Inspectors, Judges and Clerks at Municipal Elections

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

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

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

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

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

1.0807 Ballots in Municipalities - Makeup

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

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

The provisions of section 40-21-11 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. When necessary, the judges of election at a municipal election shall appoint clerks to fill vacancies. The judges and clerks of a municipal election shall take the same oath and have the same powers and authority as judges and clerks of general state elections.

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

The provisions of section 40-21-13 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. The manner of conducting, voting at, keeping

poll lists and canvassing votes at municipal elections, recounts and contests of the results of such elections shall be governed, as nearly as possible and except as otherwise provided in this chapter, by the laws of this state applicable to elections and contests in the case of county officers. Absent voters' ballots must be available in municipal elections in accordance with the provisions of Chapter 16.1-07 of the North Dakota Century Code as amended.

1.0810 City Auditor to Notify of Election or Appointments

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

1.0811 New Election Upon Failure to Elect

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

1.0812 Special Elections Conducted in Same Manner as General Elections

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

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

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

ARTICLE 9 - Records Management Policy

1.0901 Adoption of Policy

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

1.0902 Amendments, Deletions, Additions to City Records Management Manual

Sec. _____ shall be amended to read as follows:

Sec. _____ shall be deleted.

Sec. _____ shall be added to said manual to read as follows

SALARY ORDINANCE

CHAPTER TWO

ORDINANCES

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2.0102	Procedure in Passing Ordinances
2.0103	Yea and Nay Vote on Passage - When Required
2.0104	Reconsideration or Rescinding Vote
2.0105	Publication of Ordinances
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2.0107	Effect of Repeal
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2.0110	Summons to Issue on Violation of Ordinance - When Warrant of Arrest to Issue
2.0111	Commitment of Guilty Person for Non-payment of Fines or Costs
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2.0113	Judgment of Conviction
2.0114	Refusal to Work
2.0115	Fines and Forfeitures for Violation of Ordinances Paid into Municipal Treasury
2.0116	Sentencing Alternatives

CHAPTER TWO

ORDINANCES

ARTICLE 1 - Procedure

2.0101 Enacting Clause for Ordinances

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

2.0102 Procedure in Passing Ordinances

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

2.0103 Yea and Nay Vote on Passage - When Required

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

2.0104 Reconsideration or Rescinding Vote

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

2.0105 Publication of Ordinances

The title and penalty clause of every ordinance imposing any penalty, fine, imprisonment or forfeiture for violation of its provisions, after the final adoption of such ordinance, shall be published in one issue of the official paper of the municipality, except as provided below in 2.0108.

2.0106 Effective Date of Ordinances

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

2.0107 Effect of Repeal

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

2.0108 Enactment and Revision of Ordinances

The provisions of section 40-11-09 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. The executive officer of a municipality may appoint, by and with the advice and consent of the governing body of the municipality, one or more competent persons to prepare

and submit to the governing body for its adoption or rejection, an ordinance for the revision or amendment of existing ordinances or for the enactment of new and additional ordinances for such municipality. The attorney for the municipality, if it has an attorney, shall be appointed as one of the persons to prepare and submit such ordinance. The compensation of the reviser or revisers, including that of the attorney, shall be determined by the governing body and shall be paid out of the municipal treasury. Such revision, including any additional ordinances and amendments to existing ordinances contained therein, may be passed as a single ordinance and may be published in pamphlet or book form, by and under the authority of the governing body of the municipality, and shall be valid and effective without publication in a newspaper or posting.

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

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

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

The provisions of section 40-11-11 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. In all actions for the violation of an ordinance, the first process shall be a summons, but a warrant for the arrest of the offender shall be issued upon the sworn complaint of any person that an ordinance has been violated and that the person making the complaint has reasonable grounds to believe the person charged is guilty of such violation. Any person arrested under a warrant shall be taken without unnecessary delay before the proper officer to be tried for the alleged offense.

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

The provisions of section 40-11-12 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. Any person upon whom any fine or costs, or both, has been imposed for violation of a municipal ordinance may, after hearing, be committed upon order of the court to jail or other place provided by the municipality for the incarceration of offenders until the fine or costs, or both, are fully paid or discharged by labor as provided in Section 40-18-12. The court may not commit a person under this section when the sole reason for his nonpayment of fine or costs, or both, is his indigence. An order of commitment under this section shall not be for a period in excess of thirty days. As used in this section, "fine" does not include a fee established pursuant to subsection 2 of section 40-05-06 of the North Dakota Century Code.

2.0112 Costs of Prosecution

In every case of conviction of a violation of any ordinance, or any part thereof, the cost of prosecution may be assessed against the person convicted as part of the punishment.

2.0113 Judgment of Conviction

In all trials for offenses under the ordinances of the City, if the defendant is found guilty, the Municipal Judge shall render judgment accordingly. It may be a part of the judgment that the defendant stands committed until such judgment is complied with, and, at the discretion of the municipal court, the defendant may be required to work for the municipality at such labor as the defendant's strength and health will permit under the provisions of section 40-18-12 of the North Dakota Century Code.

2.0114 Refusal to Work

Any person refusing to perform manual labor in accordance with the sentence of the court shall be deemed in contempt of court and shall be punished accordingly. No credit shall be allowed such person on account such fines and costs for the date or days that such person refuses to perform manual labor, in accordance with the sentence of the court.

2.0115 Fines and Forfeitures for Violation of Ordinances Paid into Municipal Treasury

All fines, penalties and forfeitures collected for offenses against the ordinances of the City shall be paid into the City's treasury each month.

2.0116 Sentencing Alternatives

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

CHAPTER THREE

PUBLIC PLACES AND PROPERTY

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CHAPTER THREE

PUBLIC PLACES AND PROPERTY

ARTICLE 1 - Construction and Repair

3.0101 Supervision

All construction maintenance and repair of public streets, alleys, sidewalks and other public ways shall be under the supervision of the City Engineer or Public Works Superintendent, who shall be charged with the enforcement of all ordinance provisions relating to such public places (except traffic ordinances) and is hereby authorized to enforce such ordinances.

3.0102 Construction and Repair - Permits

It shall be unlawful to construct, reconstruct, alter, grade or repair any public street, sidewalk, driveway, curbs or gutters without having first secured a permit therefore, unless said work is performed by the City contractor. Applications for such permits shall be made to the City Auditor and shall state the location of the intended pavement or repair, the extent thereof and the person or firm who is to do the actual construction work. No such permits shall be issued except where the work will conform to the ordinances of the City.

3.0103 Bond

Each applicant shall file a bond in an amount to be determined on a case-by-case basis by the City Commission, with surety to be approved by the governing body conditioned to indemnify the City for any loss or damage resulting from the work undertaken or the manner of doing the same.

3.0104 Specifications

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

3.0105 Duty of Owner to Maintain

It shall be the duty of the owner of any property along which a sidewalk has been constructed to maintain the same in good repair and safe condition. Should any such owner fail so to maintain such sidewalks, the City Engineer or Public Works Superintendent shall direct the owner to make such repairs as may be necessary to restore such sidewalk to a safe condition. Should the owner fail, within a reasonable time, to follow the directions of the City Engineer or Public Works Superintendent, the City Engineer or Public Works Superintendent shall report the facts to the governing body, which may then proceed as provided in chapter 40-29 of the North Dakota Century Code.

3.0106 Application for Permit

An applicant for a permit hereunder shall file with the City Auditor an application showing:

1. Name and address of the owner, or agent in charge, of the property abutting the proposed work area.
2. Name and address of the party doing the work.
3. Location of the work area.
4. Attached plans or sufficient sketches showing details of the proposed alterations.

5. Estimated cost of the alterations.
6. Such other information as the City Engineer or Public Works Superintendent shall find reasonably necessary to the determination whether a permit should be issued hereunder.

3.0107 Standards for Issuance of Permit

The City Engineer or Public Works Superintendent shall issue a permit hereunder when it is determined:

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

3.0108 Sidewalks Built to Grade Specifications

All sidewalks shall be constructed in accordance with the elevations and grade therefore to be furnished by the City Engineer and shall be constructed under the direction and supervision of the City Engineer or under the direction and supervision of the Public Works Superintendent. All sidewalks shall meet the following requirements:

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

3.0109 Materials and Manner of Construction

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

3.0110 City Contractor

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

All sidewalks, driveways, curb and gutter and alley returns lying between the property line and the abutting street hereafter constructed within the City must conform to this chapter, and the specifications filed with the City Engineer and approved by the governing body must specify the details with respect thereto. When any contract for the construction of sidewalks, driveways, curb and gutter, relaying of block walks and paving repairs is about to be entered into by the City in accordance with the provisions of the laws of this state, the contractor to whom any such contract shall be awarded shall be required, before such contract is entered into, to give in addition to the contract bond required by the laws of the state of North Dakota, an additional bond in an amount to be determined by the governing body, running to the City, conditioned that said contractor shall satisfactorily comply with the specifications for construction. Said contractor shall maintain and keep in good repair, for a period of two (2) years from date of final acceptance all sidewalks, driveways, curb and gutter and paving repairs so constructed by such contractor under the terms of such contract, and that in case of default under the part of such contractor to so maintain and keep such improvements in good repair made by him for the said period of two (2) years, or in case they shall within said time begin to crumble or disintegrate or become cracked or broken to such extent that, in the opinion of the city engineer or street commissioner, the same is not a satisfactory compliance with the specifications for the construction thereof, then the city engineer or street commissioner may direct that such sidewalks, driveways, curb and gutters or paving repairs be immediately repaired or re-laid in whole or in part as he shall deem best, and the contractor shall immediately cause the same to be repaired or failure so to repair or to relay the same, the City at any time within said two (2) year period or thereafter, may cause the same to be repaired or re-laid, and the cost thereof whether done by the City directly or through a contract, may be recovered against said contractor and the surety upon such bond.”

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

3.0201 Obstructions - Penalty

It shall be unlawful for any person, firm or corporation to cause, create or maintain any obstruction of any street, alley, sidewalk or other public way, except as may be specified by ordinance or by the City Engineer or Public Works Superintendent. Any person violating the provisions of this section shall be guilty of an infraction and upon conviction thereof, shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500).

3.0202 Destruction of City Property - Prohibited - Penalty

It shall be unlawful for any firm, person or corporation to willfully and without just cause or excuse, to injure, deface or destroy any property owned by the City or held by the City for public use. Any person violating the provisions of this section shall be guilty of an offense and be fined not less than twenty-five dollars (\$25), nor more than one thousand dollars (\$1,000) or be imprisoned in the City jail for not to exceed thirty (30) days or by both such fine and imprisonment.

3.0203 Encroachments

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

3.0204 Openings

It shall be unlawful to construct or maintain any opening or stairway in any public street or sidewalk or alley without a permit from the governing body. All such lawfully maintained openings shall be guarded by a suitable strong cover or railing to be approved by the Public Works Superintendent or the City Engineer or the official who supervises public improvements.

3.0205 Wires

It shall be unlawful to erect any poles or wires or maintain any poles or wires over any public place, street, alley or other public way without having first secured permissions from the City governing body. Any person or company which maintains poles and wires in the streets, alleys or other public places, shall, in the absence of provisions in the franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible, and keep all such trees and shrubs near such wires and poles properly trimmed, subject to the supervision of the City Engineer or Public Works Superintendent, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

3.0206 Littering - Prohibited

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

3.0207 Burning

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

3.0208 Distributing Hand Bills, Etc.

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

3.0209 Heavy Vehicles

No person, firm or corporation shall move, or cause to be moved over the paved streets, sidewalks, crosswalks, culverts, bridges and viaducts within the City any engine, tractor, wagon, truck or other vehicle, object or thing which will tend to injure the paving, sidewalks, crosswalks, culverts, bridges or viaducts over which the same are transported, or which exceeds in weight 16,000 pounds per axle and exceeds 750 pounds per inch of tire widths, or any vehicle to the wheels of which are attached spurs, bars, angle irons or cleats which will tend to mar or deface the paving, sidewalks, crosswalks, culverts, bridges or viaducts, except under the direction and permission of the City governing body. Violators shall pay or cause to be paid to said City, upon demand, any and all damages done to the paving, sidewalks, crosswalks, culverts, bridges or viaducts. When the specified load limits herein contained will cause damage to the City's paved streets, the City governing body, by resolution adopted, may lower said load limits for such period of time as it may deem necessary. The provisions of this section shall not apply to state and federal highways through the City.

3.0210 Removal of Snow and Ice from Sidewalk

It shall be, and hereby is declared to be, the duty of the owner or occupant of each lot in the City to remove from the sidewalk in front of or along the same, any ice or snow which forms, accumulates or obstructs such sidewalk, within twenty-four (24) hours after the ice forms or the snow ceases to fall thereon. Where the ice accumulated is of such character as to make the removal thereof practically impossible, the sprinkling of ashes or sand thereon within the time specified for removal in such manner as to make such sidewalk safe for the travel of pedestrians thereon, shall be deemed a compliance with the provisions of this article.

3.0211 Removal of Snow and Ice by City

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

3.0212 Assessments by Street Superintendent When Work is Done by City

Whenever the Public Works Superintendent shall, pursuant to Section 3.0211 of this article, remove or cause to be removed any snow or ice from any sidewalk or sidewalks along or in front of any building, grounds or premises, the Public Works Superintendent shall assess the cost of the same against said property, and on or before the first day of May in each year, make and file in the office of the City Auditor a list showing separately the amount chargeable and assessed against each lot and tract and stating the name of the owner of each lot or tract as known to the Public Works Superintendent.

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

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

3.0214 Street Cleaning - Snow Removal

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

3.0215 Notice - Snow Removal or Street Cleaning

Whenever it becomes necessary to remove snow or ice or to sweep and clean streets, or to mark streets for traffic purposes in the City there shall be designated by the City Engineer or Public Works Superintendent the area and streets to be cleared, cleaned or marked and the time during which such activity will be done by the posting of such information in the area affected or some other means of public notice.

3.0216 Impounding Vehicles and Equipment

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

3.0217 Blocking Streets

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

3.0218 Excavations - Permit

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

3.0219 Guarding or Excavations and Openings

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

3.0220 Application for Excavation Permits

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

3.0221 Fees for Excavation Permits

The fee for excavation permits shall be set from time to time by Resolution of the City Commission. The resolution fixing the fee for excavation permits shall be contained in the **RESOLUTION ESTABLISHING CITY SERVICE CHARGES**.

3.0222 Bond - Excavations

No excavation permit shall be issued unless and until the applicant therefore has filed with the City Auditor a bond in the sum of ten thousand dollars (\$10,000), conditioned to indemnify the City for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing

any such tunnel or excavations. Such bond shall have as surety a corporation licensed to do business in the state as a surety company.

3.0223 Deposit - Excavations

No excavation permit shall be issued unless and until the applicant therefore has deposited with the City Auditor a cash deposit or bond in the sum of one thousand dollars (\$1,000) if no pavement is involved, and the sum of five thousand dollars (\$5,000) if pavement is involved, to insure the proper restoration of the area involved. Any balance will be returned to the applicant without interest after the excavation area is restored.

3.0224 Making Excavations - Notice

It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefore. Proper bracing shall be maintained to prevent the collapse of adjoining ground, and in excavations, the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface. No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

No injury shall be done to any pipes, cables or conduits in the making of such excavations or tunnels, and notice shall be given to the persons maintaining any such pipes, cables or conduits or to the City department or officer charged with the care thereof, which are or may be endangered or affected by the making of any such excavation or tunnel before such pipes, cables or conduits shall be disturbed. Notice shall be given as required by chapter 49-23 of the North Dakota Century Code.

3.0225 Restoration of Excavations

Any person, firm or corporation making any excavation or tunnel in or under any public street, alley or other public place in the City shall restore the surface to its original condition if there is no pavement there. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground. Any opening in a paved or improved portion of a street shall be repaired and the surface re-laid by the applicant, in compliance with the ordinances of the City and under the supervision of the Public Works Superintendent or City Engineer.

3.0226 Supervision of Excavation Work

The Public Works Superintendent or City Engineer shall from time to time inspect or cause to be inspected, all excavations and tunnels being made in or under any public street, alley or other public place in the City to see to the enforcement of the provisions of this article. Notice shall be given to the Public Works Superintendent or City Engineer at least ten (10) hours before the work of refilling any such tunnel or excavation is begun..

3.0227 City Buildings, Equipment and Vehicles - Smoking

Smoking is not permitted in City buildings, equipment and vehicles, except as provided under state law.

ARTICLE 3. Unclaimed and Abandoned Property

3.0301 Unclaimed and Abandoned Property - Defined

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

3.0302 Seizure of Unclaimed or Abandoned Property

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

3.0303 Holding of Personal Property - Notice of Sale

Abandoned personal property shall be held by the City for a period of not less than sixty (60) days after its seizure as provided herein, and after the expiration of said sixty (60) days the City Auditor shall cause notice to be published in the official newspaper of said City, said notice specifying and stating the description of the property so seized and held, the location of the place where the same was seized or taken by said City, and a further notice that said property will be sold at public auction, to the highest bidder for cash, not less than ten (10) days from and after the date of the publication of such notice and the hour, date and place where said sale will be held. If prior approval is obtained from the city governing body such unclaimed or abandoned property may be sold at a community auction provided that the City Auditor shall be responsible for the notice and reporting requirements of this article.

3.0304 Report of Abandoned Property Sale

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

3.0305 Bill of Sale - Abandoned Property

Upon the receipt of the report as specified in section 3.0304 hereof, the City Auditor shall prepare a bill of sale of the property sold conveying the same to such purchaser and the same shall be executed by the presiding officer of the governing body and attested by the City Auditor and delivered to the purchaser.

3.0306 Proceeds of Sale - Abandoned Property

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

3.0307 Redemption of Personal Property

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

3.0308 Annual Report - Unclaimed and Abandoned Property

The City Auditor, prior to June 1 of each year, shall produce a written list of all unclaimed and abandoned property held by the City which has not been sold pursuant to the provisions of this article. The City Auditor shall bring such list to the attention of the governing body at the next regular meeting.

ARTICLE 4 - House Numbering

3.0401 House Numbering Required

All lots, buildings and structures in the City shall be numbered in accordance with the existing 911 plan:

3.0402 Numbers of Houses

It shall be the duty of the owner and occupants of every house in the City to have placed thereon, in a place visible from the street, figures at least two and one-half (2 ½) inches high, showing the number of the house.

ARTICLE 5 – Trees – Shade Tree Committee

3.0501 Definitions – Street Trees and Park Trees

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

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

3.0502 Establishment of a Shade Tree Committee – Terms - Compensation

There is hereby established a Shade Tree Committee for the City which consists of the City governing body. Members of the committee shall serve without compensation.

3.0503 Operation and Duties of the Shade Tree Committee

The Shade Tree Committee shall keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. It shall be the responsibility of the committee to study, develop, update and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan shall constitute the comprehensive tree plan for the City.

3.0504 Tree Care – Tree Topping

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

CHAPTER FOUR

FIRE PROTECTION AND PREVENTION

ARTICLE 1 – General Provisions

- 4.0101 General Provisions
- 4.0102 Fire Permit

FIRE PERMIT

CHAPTER FOUR

FIRE PROTECTION AND PREVENTION

ARTICLE 1 – General Provisions

4.0101 General Provisions

The City of Halliday has relinquished its fire department authority to the Halliday Rural Fire Protection District. Appropriate sections of the North Dakota Century Code are incorporated by reference in this code.

4.0102 Fire Permit

A Fire Permit must be obtained for any bonfire or other exposed fire in the City limits of Halliday, and will be effective for the remainder of the current calendar year, no matter when purchased. Please refer to the permit attached on the next page for additional information.

Fire Permit
Halliday, North Dakota
Date: _____

Permit #: _____
Issued to: _____
Location of Fire: _____

GENERAL PROVISIONS

A Fire Permit must be obtained for any bonfire or other exposed fire in the City limits of Halliday, and will be effective for the remainder of the current calendar year, no matter when purchased. The fee will be five dollars (\$5). If a City official visits a location with a bonfire or other exposed fire and no fire permit has been obtained the violator or violators will be required to obtain a fire permit and pay an additional fee of twenty-five dollars (\$25). If a permit has been obtained and the requirements stated herein have been violated, the violator(s) will be fined two hundred dollars (\$200) and the permit will be revoked for the violator(s) for the remainder of the calendar year. A second violation of the requirements stated herein will carry a fine of four hundred dollars (\$400) and the violator(s) will incur a lifetime ban for obtaining fire permits. The main purpose for this permit is to ensure that the following considerations and requirements are known and understood:

1.CHECK BURN BAN STATUS! All fires are prohibited when the North Dakota Rangeland Fire Index is in the High, Very High, or Extreme category and/or a Red Flag Warning has been issued for Stark County, North Dakota. Check with the Dunn County Emergency Manager at (701) 290-1769 or the daily Rangeland Fire Index at the following web site:

<http://www.ag.state.nd.us/FM/FMLinks.htm>

Any individual who willfully violates the burn ban is guilty of a Class B Misdemeanor.

2. Plan ahead to anticipate weather conditions. If smoke from your fire will travel towards other homes or buildings, wait until the wind changes or subsides. Only seasoned wood and/or commercial fire logs may be burned, although a small amount of paper or cardboard may be used to start the fire.

3. Be considerate of your neighbors. Keep the noise down, especially later in the evening.

SPECIFIC REQUIREMENTS

1. Fires must be contained in portable fire rings or fire pits no more than three (3) feet in diameter. The fuel for the fire may not extend beyond the limits of the ring or pit, and such fire rings or pits must be equipped with spark screens.

2. The location of the fire must be at least fifteen (15) feet from any structure.

3. All fires must be constantly attended by an adult until the fire is extinguished.

4. A minimum of one portable fire extinguisher with a minimum 4A rating or other on-site fire extinguishing equipment such as dirt, sand, water barrel, garden hose or water truck shall be available for **immediate** utilization.

5. Fires may not continue past midnight.

6. If, in the opinion of a representative of the Fire or Police Department, a fire creates or adds to a hazardous or potentially hazardous situation, that representative may order the fire to be extinguished.

Applicant signature City Auditor signature

CHAPTER FIVE
POLICE DEPARTMENT

ARTICLE 1 – General Provisions

5.0101 General Provisions

CHAPTER FIVE

POLICE DEPARTMENT

ARTICLE 1 – General Provisions

5.0101 General Provisions

The City of Halliday has relinquished its police authority to the Dunn County Sheriff's Department. Appropriate sections of the North Dakota Century Code are incorporated by reference in this code.

CHAPTER SIX

ZONING - LAND USE PLANNING

ARTICLE 1 – General Provisions

6.0101 General Provisions

CHAPTER SIX
ZONING - LAND USE PLANNING

ARTICLE 1 – General Provisions

6.0101 General Provisions

The City of Halliday has developed a zoning code as a separate document, which is available from the City Auditor. Its provisions are incorporated by reference in this code.

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WATER AND SEWER

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ARTICLE 5 - Adoption of State Plumbing Code

7.0501	Adoption
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ARTICLE 6 - General Penalty Provisions

7.0601	Penalty for Violation of Chapter
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RESOLUTION ESTABLISHING CITY SERVICE CHARGES

CHAPTER SEVEN
WATER AND SEWER

ARTICLE 1 - Utility Established

7.0101 Water and Sewer Department Established

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

7.0102 City Water and Sewer Department to be Independent Agency

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

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

7.0103 Scope of Utility

The properties of the City Water and Sewer Department and all future improvements, extensions and enlargements thereof, together with all cash and other assets held in the City's Water and Sewer Utility Fund and all moneys to be derived thereafter from the services, facilities, products and by-products of said utility, shall be and are hereby appropriated and dedicated to the purpose of insuring the public health, safety and welfare by furnishing and making available water and sewerage service to the City and its inhabitants and industries. Said utility shall at all times be under the management and control of the governing body of the City and shall by it be operated and maintained in such manner as to provide its service with maximum efficiency and at the minimum cost which is compatible with the plan of operation herein described.

7.0104 Service Charges - Use of

The City Water and Sewer Department shall at all times be so operated and maintained, and rates and charges for its services, facilities, products and by-products shall be such, as to make the utility self-supporting and

self-perpetuating. Such charges from time to time imposed and collected shall be made and kept adequate to pay as incurred all costs of operation and maintenance of said utility and to establish and maintain reasonable operating reserves; to produce net revenues which shall be sufficient at all times to pay promptly the principal and interest due on all obligations of the City incurred for the improvement, extension and enlargement of said utility, to the extent that such obligations are according to their terms payable from said net revenues, and to establish and maintain adequate reserves for the security of said obligations. Charges may be set to produce surplus net revenues, over and above current principal, interest and reserve requirements, in amounts sufficient to provide reasonable allowances for depreciation and replacement of the utility plus a reasonable return on the City's capital investment therein which surplus net revenues, when actually on hand, and to the extent that they are not required as a reserve for depreciation and replacement, may from time to time be appropriated by the governing board to pay or contribute to the cost of any other City functions, subject to the limitations now or hereafter prescribed by law.

The foregoing appropriations shall not, however, be deemed or construed to preclude the City from defraying any part or all of the expense of any improvement, enlargement or extension of the water and sewer utility by the levy of special assessments or taxes or the issuance of general obligation bonds, whenever and to the extent that such action is authorized in the manner provided by law and is deemed fair and equitable by the governing body.

7.0105 Policy on Improvements - Extensions

It is hereby declared to be the policy of the City, subject to such modifications as shall be deemed by the governing body to be required by special circumstances in individual cases, and subject to such modifications as may hereafter be made by ordinance amendatory hereof or supplemental hereto, that the cost of capital improvements, enlargements and extensions of said utility shall be paid in the following manner:

1. Where water mains not exceeding six inches or sanitary sewer mains not exceeding eight inches in diameter are installed adjacent to residential properties, and where water mains not exceeding eight inches or sewer mains not exceeding ten inches in diameter are installed adjacent to commercial properties, the total cost thereof shall be assessed against the properties abutting on such improvements, in sums proportionate to and not exceeding the total benefits determined to be derived therefrom by the respective properties. Water and sewer mains of the dimensions above described are referred to herein as "lateral" mains and other mains are referred to as "trunk" mains.
2. Where a trunk main is installed, the governing body upon advice of the City Engineer shall estimate the probable cost of construction of a lateral main at the same time and place and such estimated cost shall be assessed against the properties abutting on such main and in the manner above provided.
3. Twenty percent (20%) of the cost of any sanitary sewer in excess of the estimated cost of a lateral sewer at the same time and place shall be assessed against all properties determined by the governing body to require the immediate construction of such main as a trunk sewer, including properties abutting thereon and properties served or capable of being served by lateral sewers connected thereto, in amounts proportionate to and not exceeding the benefits determined to be derived by said respective properties from such trunk sewer.
4. The total cost of storm sewers shall be assessed against properties within the area determined to be benefited thereby, in amounts proportionate to and not exceeding the benefits determined to be derived therefrom by the respective properties.
5. Where a portion of the benefits of any of the foregoing improvements is deemed to accrue primarily to the City at large, a portion not exceeding twenty percent (20%) of the cost thereof, as determined by the governing body, may be paid by the levy of ad valorem taxes upon all property within the City over the same period as the levies of assessments for such improvements, or any portion or all of such cost may be paid out of current funds duly provided in the budget, or from the proceeds of general obligation bonds duly authorized by the electors.

6. Such portion of the cost of any improvement, extension or addition to the utility as is not paid by special assessments and taxes levied and actually collected in respect thereof shall be paid from the net revenues of the utility.
7. Where due to any error or omissions or to any special circumstances a special assessment is not levied against any property benefited by an improvement at the time of the construction thereof in accordance with the program described in this section, the City reserves the right to levy a supplemental special assessment upon such property or to impose and collect a special charge for the connection of such property with the utility system in such amount as shall be required to pay its just share of the assessable cost of such improvement.

7.0106 Utility Fund - Separate Accounts

All moneys received by the City in respect of the services, facilities, products and by-products furnished and made available by the City Water and Sewer Department, except collections of special assessments and taxes appropriated to improvement district funds and moneys borrowed for capital improvements, and all money, receipt and returns received from any investments of such earnings, shall be paid into the treasure of the City and kept in a special fund which shall be permanently maintained on the books of the City, separate and distinct from other funds, and designated as the Water and Sewer Utility Fund. In the records of this fund, all receipts and disbursements of money on account of or in connection with the utility shall be entered and reflected; but the moneys from time to time on hand therein shall always constitute public municipal funds and shall be deposited and their safekeeping secured like other City funds. Separate accounts within the Water and Sewer Utility Fund shall be permanently maintained for the purpose of segregating the revenues required to meet the several expenses and obligations of the utility, as provided below, and such revenues shall be administered and accounted for as follows:

1. Operation and Maintenance Account. There shall be credited at least once in each calendar month to the Operation and Maintenance Account of said fund, as a first lien and charge on the gross revenues of the utility such sum as shall be needed, over and above any credit balance then held therein, to pay all claims due which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of approximately one month, and to maintain a reasonable reserve for contingencies. Moneys in said account shall be used only to pay expenses of the foregoing type, and not for repairs or replacements or for capital improvements properly chargeable to replacement and depreciation reserves or surplus funds.
2. Principal and Interest Account. The Principal and Interest Account of the Fund shall continue to be maintained as provided in that resolution until the payment in full of the improvement warrants issued against said fund.
3. Revenue Bond Account. The net revenues of the utility are herein defined as the aggregate of all sums on hand in the Water and Sewer Utility Fund from time to time in excess of the current requirements defined in (1) and (2) above. The entirety of the said net revenues shall be credited each month to the Revenue Bond Account of the Water and Sewer Fund until there shall have been credited within said account, and thereafter so much of the net revenues as shall be necessary to maintain at all times, a reserve in an amount at least equal to the sum of the principal and interest payments due within each next succeeding twelve-month period upon all revenue bonds of the City heretofore or hereafter issued and made payable from said accounts. After this reserve has been created, there shall continue to be credited out of the net revenues to the Revenue Bond Account each month, over and above sums required to maintain such reserve, an amount not less than one-twelfth (1/12) of the sum of the principal and interest to become due on all such revenue bonds within the then next succeeding twelve months. Moneys in said account shall be used only for the payment of principal and interest as it becomes due on said revenue bonds, and the reserve shall be used for such purpose only when other moneys in the account are insufficient. All revenue bonds

heretofore and hereafter issued and made payable from said account, subject to the limitations upon such issuance contained in Section (6) hereof, shall constitute a first lien and charge on the net revenues of said utility without preference or priority of one bond over any other. However, if at any time the moneys in the Revenue Bond Account should be insufficient to make all payments of principal and interest due on such revenue bonds, and cannot be made sufficient by transfer of moneys from the other accounts described below, the moneys available shall be first used to pay interest then accrued on all bonds payable from said account, and any excess moneys available shall be used to pay matured principal of such bonds in order of their maturity dates, provided that moneys available for payment of bonds maturing on the same date shall be prorated equally among such bonds.

4. Improvement Warrant Account. There shall also be maintained in said fund an Improvement Warrant Account, for the purpose of segregating net revenues required for the payment of any portion of the cost of improvements hereafter instituted, for which such revenues have been pledged in accordance with the provisions of Chapter 40-22 of the North Dakota Century Code. There shall be transferred from said account as required, to the fund of each improvement district for which such pledge has been made, sums sufficient, together with tax and assessment collections held in such funds, to pay when due the principal and interest on all improvement warrants drawn upon such funds for the financing of such improvements. Moneys sufficient for the requirements of said improvement district funds shall be credited and paid into the Improvement Warrant Account out of the net revenues remaining from time to time after provision for the current requirements of the Revenue Bond Account, and the lien and charge on said net revenues in favor improvement warrants for the payment of which such pledges have been made shall be subordinate only to the lien and charge on said net revenues in favor of revenue bonds payable from the Revenue Bond Account. In the event that moneys in the Improvement Warrant Account shall be insufficient for the making of all transfers required to be made to the several improvement district funds to which such pledges have been made, and cannot be made sufficient by the transfer of funds from the remaining accounts described below, the available moneys shall be apportioned first to the several improvement district funds in sums sufficient to pay interest then accrued on all warrants drawn on such district funds, and any remainder shall be applied in payment of matured principal of such warrants in order of the maturity dates thereof. As among warrants maturing on the same date, such available moneys shall be applied to the warrants of the several issues in proportion to the matured principal amount thereof for the payment of which taxes and assessments in the respective improvement funds are insufficient.
5. Replacement and Depreciation Account. There shall be maintained a Replacement and Depreciation Account, into which there shall be credited and paid as received, except as otherwise stated below, all net revenues in excess of the current requirements of the other accounts above described. In said account there shall be maintained such balances as the governing body shall from time to time determine to constitute an adequate reserve for depreciation and replacement of the utility, which reserve may be used to redeem prior to maturity obligations payable from the net revenues as and when the same become pre-payable according to their terms, or to replace worn out or obsolete properties of the utility, or to make extensions, enlargements or improvements thereto. Any moneys in said account determined to be surplus to the immediate requirements therefore may be invested or may be transferred to other City funds in the discretion of the Board, in the manner and subject to the limitations set forth in Section 40-33-12 of the North Dakota Century Code; and any acts amendatory thereof or supplemental thereto.
6. Moneys on Hand. The moneys on hand in any of the accounts of the Water and Sewer Utility Fund shall at all times be available and shall be used to the extent necessary to restore any deficiency in the funds on hand in any of the preceding accounts, in the order listed above, for the fulfillment of the requirements of such preceding accounts as herein defined.

7. Additional Accounts. The City also reserves the right to create additional accounts within the Water and Sewer Utility Fund for the purpose of segregating any surplus net revenues which may be pledged and appropriated to the payment of obligations hereafter issued to finance improvements, enlargements or extensions of said utility, other than the obligations made payable from the Revenue Bond Account and the Improvement Warrant Account, pursuant to the authority for such issuance reserved in Section 7.0107 hereof. Moneys on hand in any such account shall at all times be available for and used to the extent necessary to meet the current requirements of all of the foregoing accounts except the Replacement and Depreciation Account.

7.0107 Provisions for Financing Capital Improvements

In borrowing money for capital improvements, extensions or additions to said utility the following provisions shall at all times be observed:

1. For the purpose of this section, whenever the net revenues of the utility hereinabove appropriated to the Improvement Warrant Account are pledged to pay a portion of the cost of any improvement to be financed by improvement warrants, such warrants and the interest accruing thereon shall be deemed to be payable from said net revenues in the same proportion as that part of the cost payable from said net revenues bears to the principal amount of such warrants. The portion of costs payable from net revenues shall be deemed equal to the principal amount of the warrants less the principal amount of the taxes and assessments agreed to be levied for the payment thereof.
2. Except as provided in parts (3) and (4) below, no obligations shall be issued and made payable from the Revenue Bond Account or the Improvement Warrant Account at any time unless the net revenues of the utility, as defined in Section 7.0106 (3) hereof, received during the then next preceding fiscal year, shall have been in an aggregate amount at least equal to 125% of the average annual principal and interest payments due on all bonds payable from the Revenue Bond Account which are then outstanding or then to be issued, plus such percentage of the average of the annual principal and interest payments due on each issue of improvement warrants then outstanding or then to be issued as shall be payable from said net revenues, which averages shall be computed on the basis of the principal and interest payments due in the fiscal years of the then remaining term of all such revenue bonds and improvement warrants then outstanding. For the purpose of such computation, whenever rates for water and sewerage service have been changed in the course of any fiscal year, the net revenues for such year shall be deemed to be those which would have been received if such amended rates had been in effect during the entirety of such year, based upon the actual quantities of service furnished to each class of customers and the actual expenses of the utility during such year; provided that in no case shall the net revenues so computed be deemed to exceed 125% of the net revenues actually received during such year.
3. Refunding revenue bonds may be issued for the purpose of prepaying and refunding bonds payable from the Revenue Bond Account when and as they become pre-payable according to their terms, in the manner and to the extent permitted by law, provided that such refunding revenue bonds shall be subject to the requirements set forth in part (2) hereof, as applied to the past net revenues and future principal and interest requirements as of the date of the issuance of such refunding revenue bonds. However, the City shall and does hereby also reserve the right and privilege of issuing refunding revenue bonds, when permitted by law, for the maturities of any bonds payable from the Revenue Bond Account which have matured and for the payment of which the moneys in the Revenue Bond Account are insufficient, and cannot be made sufficient by transfer of moneys from other accounts, and such refunding revenue bonds shall be payable from the Revenue Bond Account on a parity as to interest with all then outstanding bonds payable therefrom, but the maturities of such refunding revenue bonds shall be subsequent to the maturities of all such outstanding bonds. Nothing herein shall be deemed to require the holder of any revenue bond to accept a refunding revenue bond in exchange therefore.

4. The City also reserves the right and privilege of issuing refunding improvement warrants in the manner and to the extent provided in Chapter 40-27 of the North Dakota Century Code and acts amendatory thereof and supplemental thereto. The lien and charge of such refunding warrants on the net revenues appropriated to the Improvement Warrant Account shall be the same as that in favor of the improvement warrants refunded thereby; provided that for the purpose of the computations directed to be made in this section, the maturities and the rate or rates of interest payable on such refunding warrants shall be substituted for the maturities and interest rates of the improvement warrants refunded thereby.
5. Nothing herein shall be deemed to affect the obligation of the City, under the laws of the State of North Dakota, to levy ad valorem taxes upon all taxable property within its corporate limits for the purpose of paying a deficiency, if any, in the fund of any improvement district, at the time of the maturity of the last warrant drawn thereon, or at such earlier time as may be hereafter directed by such laws; provided that it shall be the policy of the City that the amounts of any deficiency tax levies so made shall be restored to the general funds of the City out of any surplus net revenues thereafter received, over and above the requirements of the several accounts of the Water and Sewer Utility Fund as stated in Section 7.0106 hereof.
6. Except as hereinbefore authorized, no obligation of any kind shall be issued and made payable from said net revenues unless the lien thereof is expressly made subordinate and junior to the lien and charge on said net revenues in favor of all revenue bonds and improvement warrants payable from the Revenue Bond Account and the Improvement Warrant Account.

7.0108 Agreements with Bond and Warrant Purchasers

The City shall and does hereby covenant and agree with the original purchaser and each holder from time to time of each bond or warrant issued and made payable from the Revenue Bond Account or the Improvement Warrant Account, as follows:

1. It will complete all improvements financed by the issuance of such obligations with due diligence and with the greatest economy consistent with good workmanship and efficient results, and will do so without creating or permitting the creation of any liens or encumbrances on said utility or on the revenues thereof other than the liens and charges of said revenues expressly authorized in this article.
2. As long as any obligations payable from said accounts are outstanding, it will continue to own and operate said utility as a municipal utility, free from all competitions as to the services thereby provided and in good and efficient operating condition.
3. It will at all times maintain a schedule of rates, charges and rentals for all services, facilities, commodities and benefits furnished by said utility and will impose and collect the same in amounts at least sufficient to make the minimum payments into the respective accounts of the Water and Sewer Utility Fund as specified in Section 7.0106 hereof, and will revise such schedules in such manner and as often as needed to perform this covenant.
4. Under each such schedule, the City shall be obligated to pay and will pay from its other funds to the Water and Sewer Utility Fund a fair and equitable amount for any and all services, facilities, commodities and benefits furnished to the City or any of its departments by the utility.
5. It will at all times maintain books of account adequate to show all receipts and disbursements of the City respecting the utility, and application of such receipts to the purposes of the several accounts described in Section 7.0106 hereof, which books of account shall be open to inspection by the holder of any obligation payable from the Revenue Bond Account or the Improvement Warrant Account at any reasonable time. The City will furnish a certified transcript therefrom of any information which any such bond or warrant holder may request, upon payment of a reasonable fee therefore.

6. It will cause the annual financial statement of the City required by the provisions of Section 40-16-05 of the North Dakota Century Code to include a statement as to the financial condition and the receipts and disbursements of the Water and Sewer Utility Fund and of its several accounts during each fiscal year, and will furnish a copy of such statement to the original purchaser of each issue of bonds or warrants upon request.
7. Upon written demand of the holder of twenty percent (20%) or more of the bonds or warrants of any issue payable from the Revenue Bond Account or Improvement Warrant Account and then outstanding, it will cause an audit of the books of account of the utility to be made by a certified public accountant satisfactory to the holders of such obligations, the cost thereof to be paid as an operating expense of the utility and will furnish a copy of the report of any such audit to such party as shall be designated in such demand.
8. It will at all times keep the properties of said utility insured in reasonable amounts against loss or damage by fire, tornado and other risks for which similar properties are customarily insured by prudent owners, and will carry adequate public liability insurance, insuring against any claim of personal injury of property damage which is or may become a charge against the revenues of the utility. The City will also cause all persons handling funds of the utility to be bonded in suitable amounts for the protection of the City and the holders of obligations of the utility, and the expense of all such insurance and bonds shall be accounted for as an operating cost of the utility. The City will use the proceeds of any such insurance and bonds to restore the loss or damage compensated thereby.
9. The City and its governing body and each and all of its officers will punctually perform all duties with reference to said utility and the revenues thereof and the obligations issued hereunder which are imposed by the ordinances and resolutions of the City in force on the date upon which any such obligations are issued. All provisions of the Constitution and laws and of such ordinances and resolutions which are provide security for the holders of bonds issued hereunder are acknowledged to be a part of the City's contract with the holders of such obligations; provided that nothing herein shall be deemed to preclude the City from modifying the policies set forth in Section 7.0105 hereof with reference to any improvements constructed and financed after the effective date of such modification.
10. The holders of twenty percent (20%) or more in principal amount of each issue of bonds or warrants payable from the Revenue Bond Account or the Improvement Warrant Account and at the time outstanding shall be privileged, and are hereby empowered, to institute and maintain, on behalf of the holders of all outstanding obligations of the same issue, any suit or proceeding at law or in equity for the protection and enforcement of any covenant, agreement or stipulation herein provided to be performed or observed by the City or its governing body or any of its officers, whether or not any such obligations are then in default as to principal and interest. Each and all of the rights and remedies provided by Sections 40-35-15 and 40-35-19 of the North Dakota Century Code are hereby acknowledged to be available to the holders of such obligations.

ARTICLE 2 - Water Service

7.0201 Water System

All land, buildings, machinery, equipment, tools and apparatus, water mains, hydrants, service connections and all other property used for the purpose of furnishing a water supply to this City, and the inhabitants thereof, now owned or to be owned by this City, whether acquired by the issue of general obligation bonds, special assessment warrants or other obligations of this City, shall constitute and be known as the waterworks system.

7.0202 Superintendent of City Water and Sewer Department

A Water and Sewer Utility Superintendent shall be appointed by the governing board. If the Water and Sewer Utility Superintendent is a part-time employee and is also a City employee in some other capacity, only those services respecting the utility shall be an operating charge of the system. It shall be the duty of the Water and Sewer Utility Superintendent to exercise control and management of the operation of the utility system. The Water and Sewer Utility Superintendent shall have power and authority to employ, subject to the approval of the governing body, all such engineers, filter plant operators, meter readers, laborers and other employees, as may be necessary to the operation of the utility system. All such employees shall be subject to the orders and directions of the Water and Sewer Utility Superintendent, and the Water and Sewer Utility Superintendent shall be responsible for their acts. The Water and Sewer Utility Superintendent shall have power and authority to purchase such materials, supplies and repairs for the water-sewer system, with the approval of the governing board of the City, as shall be reasonably necessary for the operation of such system. The Water and Sewer Utility Superintendent shall keep such books and records of matters pertaining to the operation of the system as are necessary to show the operation and condition thereof. The Water and Sewer Utility Superintendent shall at all times be subject to the supervision and direction of the governing board and shall perform such other duties and have such other powers and authority as are hereinafter provided.

7.0203 Same: Reports

The Water and Sewer Utility Superintendent shall make monthly reports to the governing body concerning the operation of the department.

7.0204 Application for Water Service and Service Connection Charge

Any party desiring water and sewer service from said utility for premises not heretofore connected with the system, and not subject to the provisions of Section 7.0205, shall apply for a connection on a form provided by the City. Such application shall state an exact description of the premises to be served, and the uses, both general and special, to which the water is to be put, the nature of sewage to be discharged, and the estimated amount of water to be used for a quarter-annual period. Such application shall be filed with the City Auditor, and the applicant shall thereupon pay to the City Auditor, a connection charge for a residential building, commercial building or multiple dwelling as contained in the **RESOLUTION ESTABLISHING CITY SERVICE CHARGES** at the end of this chapter.

7.0205 Water Service - To Property Not Previously Assessed

No permit shall be issued for the making of any connection between any water or sewer line on any property which has not previously been benefited by existing water and/or sewer lines or whenever the owners of such property have not been assessed for such water and sewer lines, unless and until such person shall have paid or made a written statement with the City to pay in monthly installments within a maximum of three (3) years an amount of money as may be therefore determined by the governing body. The amount of the payment shall be based on the area served and benefit resulting to the property involved. Within 30 days of the receipt of such application, the governing body shall determine the amount of money required to be paid before such connection shall be made and shall advise the applicant property owner of such determination. All such money paid and received pursuant to the provisions of this section shall be placed in the water and sewer utility fund and shall be expended in accordance with the purposes of such fund.

7.0206 Subsequent Connection to Premises

Any party, other than the original applicant, desiring service for premises where a connection has been made pursuant to Sections 7.0204 and 7.0205 shall make written application therefore as in cases described in Section 7.0204, and if the connection charge for such premises has not been fully paid at such time, the applicant shall pay or agree to pay the remainder thereof in like manner and time as described in Sections 7.0204 and 7.0205.

7.0207 Separate Connections for each Premise - Exception

Unless special permission is granted by the Water and Sewer Utility Superintendent, each premise shall have a separate and distinct water service connection and sewer service connection, and where permission is granted for branch service systems, each unit on the branch shall pay the fees as set in Section 7.0222.

7.0208 Service Outside City Limits - Prohibited - Exception

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

7.0209 Service in Unplatted Areas

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

7.0210 Water Service - Construction of - Maintenance of by Owner

The cost of original installation of all plumbing between the main and any service devices maintained by the consumer and all extensions made to such plumbing, as well as all repairs, shall be borne entirely by the consumer, although such plumbing and services as well as the meters shall at all reasonable times be subject to inspection by duly authorized representatives of the City. Any repairs found to be necessary by such representatives shall be made promptly, or the City will discontinue service.

All services shall be constructed by licensed plumbers at the owner's expense, and each service shall be maintained by the owner. Services heretofore acquired by the issuance of special assessment warrants and assessed against the property, or which may be acquired in the future in like manner, shall likewise be maintained by the owner. "Services" means the service line running from the point of connection with the City main to the owner's premises.

7.0211 Water Meters - Checked

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

7.0212 Unlawful to Use Water Not Metered - Unlawful to Tamper with Curb Cock

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

7.0213 Defective Service - Consumers Duty to Report

All claims for defective service shall be made in writing and filed with the Water and Sewer Utility Superintendent on or before the fifteenth day of the month next succeeding such defective service, or be deemed waived by the claimant. It shall be the duty of the Water and Sewer Utility Superintendent to investigate the facts alleged in each claim and determine the amount, if any, which should be refunded to a claimant by reason of defective service and report such determination to the governing body. If a claim is approved by that body, such

amount shall be allowed as credit on the following bill or paid as other claims, but no claim shall be made against the City for any fire or any injuries to the person or property of any consumer of water or sewer service under the provisions hereof.

7.0214 Users Consent to Regulations

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

7.0215 Regulations Governing Service

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

1. Shutting Off Water - Who Authorized. No person except an authorized employee of the water department shall shut off or turn off the water at the curb cock to any premises without first obtaining permission from the water department.
2. City Reserves Right to Shut Off Water - Notice. In the case of making repairs or constructing new work, the City reserves the right to shut off the water at once and keep the same shut off as long as may be necessary to accomplish such purposes. Service may also be discontinued for nonpayment of bills or for disregard of rules and regulations affecting the service.
3. Non-liability of City for Deficient Supply or Quality of Water. It is expressly provided that the City shall in no event be or become liable to any consumer of water for a deficiency in the supply of water or the quality thereof, whether by shutting off the same to make repairs or to construct new work or for any other cause whatsoever.
4. Shutting Off or Turning On Water - Charge for. The water department shall make a charge of as contained in the **RESOLUTION ESTABLISHING CITY SERVICE CHARGES** at the end of this chapter for shutting off or turning on services.
5. Entrance and Access to Premises by Waterworks Employees. Authorized employees of the water and sewer department shall have free access to any premises supplied with water, at proper times, to inspect and ascertain the condition of the meters and fixtures, or for reading meters, and no owner or occupant shall refuse such employees such access. The water department shall have the right to enter any premises and remove the meter for the purpose of examination and test after first notifying the owner or occupant, and to shut off the water to premises where free access is prevented.
6. Fire Hydrants - Who May Open. No person except City employees in the performance of their official duties shall open or cause to be opened any fire hydrant without the written permission of the Water and Sewer Utility Superintendent.

7.0216 Connection to be Supervised by City Employees

In installing water and sewer service, all taps shall be driven, street excavations made, corporation cocks inserted, pipes installed from the main and the curb cock installed in an iron case to which the service is to be connected by the individual, his agent or employee under the supervision, direction and control of the water and sewer department. Ten feet spacing shall be allowed between all water and sewer lines in new connections to service. Failure to comply with this section shall be considered a disregard of the rules of the department and service to the affected property can be withheld or discontinued as the case may be.

7.0217 Service Pipes Specifications

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

7.0218 Curb Cock Specifications

There shall be a curb cock in every service line attached to the water mains, the same to be placed as near as possible to the curb if on a street, or within one foot of the alley line if the main is located in the alley. Curb cocks shall be supplied with strong and suitable "T" handles and shall be enclosed in a substantial iron case covered with a tight fitting iron lid with the letter "W" cast upon it. There shall be one or more stops and waste cocks attached to every supply pipe at some point between the curb cock and the meter so that the water can be shut off and the house plumbing entirely drained. There shall be another such stop and waste cock in the pipe on the house side of the meter.

7.0219 Check Valves Required When Necessary

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

7.0220 Use of Water During Fire - Unlawful

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

7.0221 Waterworks Customers May Lay Larger Pipes with Hydrants - When

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

7.0222 Rates and Charges

Water and sewer rates shall be fixed from time to time by resolution of the governing body and the City reserves the right to change the rates from time to time as it deems best. The resolution fixing water and sewer rates and charges shall be contained in the **RESOLUTION ESTABLISHING CITY SERVICE CHARGES** at the end of this chapter.

7.0223 Rates and Charges - Liability for

The owner or owners of all real property in the City furnished water or sewer service or service line repairs shall be responsible for the payment of any and all such charges regardless of who the occupant or tenant may be. Owners of premises where water or sewer service is supplied shall notify the water or sewer department or the City Auditor in case any tenant moves from said premises, prior to such moving. On request of the owner or owners, the City Auditor will bill or cause to be billed the occupant or tenant for such charges, but if such charges are not paid when due by the occupant or tenant, the owner or owners shall be responsible for such charges and they shall be assessed to the property served according to section 7.0408. It shall be the duty of the City Auditor to certify to the

county auditor such unpaid water or service charges that are unpaid in the same manner and at the same time as other assessments are certified, and they shall be assessed and collected in the same manner.

7.0224 Duty to Report to Auditor

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

7.0225 Excavators

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

7.0226 Restriction of Use of Water

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

ARTICLE 3 - Regulation of Sewer Use

7.0301 Purpose

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

7.0302 Definitions

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

1. "BOD" (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter.
2. "Building Drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. "Building Sewer" means the extension from the building drain to the public sewer or other place of disposal, also called house connection.
4. "Combined Sewer" means a sewer intended to receive both wastewater and storm or surface water.
5. "Easement" means an acquired legal right for the specific use of land owned by others.

6. "Floatable Oil" is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.
7. "Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
8. "Industrial Wastes" means the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.
9. "Natural Outlet" means any outlet, including storm sewers and combined sewer overflows, into a watercourse pond, ditch, lake or other body of surface or groundwater.
10. "May" is permissive (see "shall," Sec. 18).
11. "Person" means any individual, firm, company, association, society, corporation or group.
12. "pH" means the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has pH value of 7 and a hydrogen-ion concentration of 10^{-7} .
13. "Properly Shredded Garbage" means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than $\frac{1}{2}$ inch (1.27 centimeters) in any dimension.
14. "Public Sewer" means a common sewer controlled by a governmental agency or public utility.
15. "Sanitary Sewer" means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.
16. "Sewage" is the spent water of a community. The preferred term is "wastewater," Sec. 24.
17. "Sewer" means a pipe or conduit that carries wastewater or drainage water.
18. "Shall" is mandatory (see "may," Sec. 10).
19. "Slug" means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
20. "Storm Drain" (sometimes termed "storm sewer") means a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.
21. "Water and Sewer Utility Superintendent" means the superintendent of wastewater facilities, and/or of wastewater treatment works, and/or of water pollution control of the City or an authorized deputy, agent or representative.
22. "Suspended Solids" means total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering as

prescribed in “Standard Methods for the Examination of Water and Wastewater” and referred to as non-filterable residue.

23. “Unpolluted Water” is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
24. “Wastewater” means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.
25. “Wastewater Facilities” means the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.
26. “Wastewater Treatment Works” means an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. It is sometimes used as synonymous with “waste treatment plant” or “wastewater treatment plant” or “water pollution control plant.”
27. “Watercourse” means a natural or artificial channel for the passage of water either continuously or intermittently.
28. “Hearing Board” means that board appointed according to the provisions of Section 7.0209.

7.0303 Use of Public Sewers Required

1. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City any human or animal excrement, garbage or other objectionable waste.
2. It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.
3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
4. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City, and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer, is hereby required at the owner’s expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within sixty (60) days after date of official notice to do so, provided that said public sewer is within 200 feet (61 meters) of the property line according to the North Dakota plumbing code.

7.0304 When Private Sewage Disposal Permitted

1. Where a public sanitary or combined sewer is not available under the provisions of Section 7.0303 (4), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.
2. Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the Water and Sewer Utility Superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by

any plans, specifications and other information as are deemed necessary by the Water and Sewer Utility Superintendent. A permit and inspection fee as contained in the **RESOLUTION ESTABLISHING CITY SERVICE CHARGES** at the end of this chapter shall be paid to the City at the time the application is filed.

3. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Water and Sewer Utility Superintendent. The Water and Sewer Utility Superintendent shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the Water and Sewer Utility Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the Water and Sewer Utility Superintendent.
4. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations and/or regulations of the North Dakota State Department of Health. No permit shall be issued for any private wastewater disposal system not meeting these conditions. No septic tank or cesspool shall be permitted to discharge to any natural outlet or to the ground surface.
5. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 7.0303 (4), a direct connection shall be made to the public sewer within sixty (60) days in compliance with this ordinance, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.
6. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City. All sludge or solids, to be disposed of from a septic tank, cesspool or other individual method of disposal shall be disposed of by a licensed septic tank pumper in accordance with Section 23-19-01 of the North Dakota Century Code.
7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the local health officer.

7.0305 Building Sewers and Connections

1. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Water and Sewer Utility Superintendent.
2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent, shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Water and Sewer Utility Superintendent. A permit and inspection fee as contained in the **RESOLUTION ESTABLISHING CITY SERVICE CHARGES** at the end of this chapter for a residential or commercial building sewer permit or for an industrial building sewer permit shall be paid to the City at the time the application is filed.
3. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
4. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building

sewer from the front building may be extended to the rear building and the whole considered as one building sewer. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.

5. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Water and Sewer Utility Superintendent, to meet all requirements of this ordinance.
6. The size, slope alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of suitable code provisions, specifications of the state building and plumbing codes shall apply.
7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
8. No person shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer, or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Water and Sewer Utility Superintendent and the North Dakota State Department of Health.
9. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Water and Sewer Utility Superintendent before installation.
10. The applicant for the building sewer permit shall notify the Water and Sewer Utility Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Water and Sewer Utility Superintendent or his representative.
11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

7.0306 Use of Public Sewers

1. No person shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any building drain or sewer which in turn is connected directly or indirectly to the sanitary sewer unless such connection is approved by the Water and Sewer Utility Superintendent and the North Dakota State Department of Health.
2. Storm water other than that exempted under Section 7.0306 (1) and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Water and Sewer Utility Superintendent and the North Dakota State Department of Health.
3. No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

- a. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
 - b. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
 - c. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.
 - d. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.
4. The following described substances, materials, waters or waste shall be limited in discharges to city systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, and public property or constitute a nuisance. The Water and Sewer Utility Superintendent may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the Water and Sewer Utility Superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Water and Sewer Utility Superintendent are as follows:
- a. Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
 - b. Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils or product of mineral oil origin.
 - c. Wastewater from industrial plants containing floatable oils, fat or grease.
 - d. Any garbage that has not been properly shredded (see Section 7.0302 (13)). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
 - e. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Water and Sewer Utility Superintendent for such materials.
 - f. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Water and Sewer Utility Superintendent.

- g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Water and Sewer Utility Superintendent in compliance with applicable state or federal regulations.
 - h. Quantities of flow, concentrations or both which constitute a “slug” as defined herein.
 - i. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such a degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
 - j. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.
5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 7.0306(4), and which in the judgment of the Water and Sewer Utility Superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Water and Sewer Utility Superintendent may:
- a. Reject the wastes;
 - b. Require pretreatment to an acceptable condition for discharge to the public sewers;
 - c. Require control over the quantities and rates of discharge; and/or
 - d. Require payment to cover the added costs of handling and treating the wastes not covered by other sewer charges.

If the Water and Sewer Utility Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Water and Sewer Utility Superintendent and the North Dakota State Department of Health.

6. Grease, oil and sand interceptors shall be provided when, in the opinion of the Water and Sewer Utility Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in 7.0306 (4) (c), or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the North Dakota Plumbing Code and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the Water and Sewer Utility Superintendent. Any removal and having of the collected materials not performed by owner personnel must be performed by currently licensed waste disposal firms.
7. Where pretreatment or flow-equalizing facilities are provided or required by any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
8. When required by the Water and Sewer Utility Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling

and measurement of the wastes. Such structures, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Water and Sewer Utility Superintendent. The structure shall be installed by the owner at his expense and shall be maintained by the owner so as to be safe and accessible at all times.

9. The Water and Sewer Utility Superintendent may require a use of sewer services to provide information needed to determine compliance with this ordinance. These requirements may include:
 - a. Wastewaters discharge peak rate and volume over a specified time period.
 - b. Chemical analyses of wastewaters.
 - c. Information on raw materials, processes and products affecting wastewater volume and quality.
 - d. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
 - e. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
 - f. Details of wastewater pretreatment facilities.
 - g. Details of systems to prevent and control the losses of materials through spills to the City sewer.
10. All measurements, test and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis by the Water and Sewer Utility Superintendent.
11. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

7.0307 Damage to Sewer Works Prohibited

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

7.0308 Powers and Authority of Inspectors

1. The Water and Sewer Utility Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the community system in accordance with the provisions of this ordinance.
2. The Water and Sewer Utility Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes that have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

3. While performing the necessary work on private properties referred to in Section 7.0308 (1), the Water and Sewer Utility Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except such as may be caused by negligence or failure of the company to maintain safe conditions as required in Section 7.0306 (8).
4. The Water and Sewer Utility Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

7.0309 Hearing Board

1. A hearing board, consisting of three (3) members, may be selected as needed for arbitration of differences between the Water and Sewer Utility Superintendent and sewer users on matters concerning interpretation and execution of the provisions of this ordinance by the Water and Sewer Utility Superintendent.
2. If a hearing board is used, one member of the board shall be selected to represent the City, one member shall be selected to represent the sewer user involved in the arbitration and the third member shall be acceptable to both parties and shall serve as the chairman in the arbitration.

7.0310 Penalties

1. Any person found to be violating any provision of this ordinance except Section 7.0307 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Any person who continues any violation beyond the time limit provided for in Section 7.0310(1), upon conviction thereof, shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) for each violation. Each day in which any such violation continues shall be deemed a separate offense.
3. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

7.0311 Validity

The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

ARTICLE 4 - Sewer Surcharge

7.0401 Purpose

1. The purpose of this article shall be to generate sufficient revenue to pay all costs for the operation and maintenance of the complete wastewater system. The costs shall be distributed to all users of the wastewater system in proportion to each user's contribution to the total loading of the treatment works. Factors such as strength (BOD and TSS), volume and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance costs to each user.
2. The definitions set forth in Section 7.0302 of this chapter shall also apply to this article.

7.0402 Determining the Total Annual Cost of Operation and Maintenance

The City or City Engineer shall determine the total annual costs of operation and maintenance of the wastewater system which are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works are designed and constructed. The total annual cost of operation and maintenance shall include, but need not be limited to, labor, repairs, equipment replacement, maintenance, necessary modifications, power, sampling, laboratory tests and a reasonable contingency fund.

7.0403 Determining Each User's Wastewater Contribution Percentage

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

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

7.0404 Determining a Surcharge System for Users with Above Normal Volume, BOD and TSS

The City or the City Engineer shall determine the average total suspended solids (TSS) and biochemical oxygen demand (BOD) daily loadings for the average residential user and residential user class. The City will assess a surcharge rate for all non-residential users discharging wastes with volume, BOD and TSS strengths greater than the average residential user. Such users will be assessed a surcharge sufficient to cover the costs of treating such users above-normal strength wastes and/or volume. Normal strength wastes are considered to be 200 mg/1 BOD and 250 mg/1TSS.

7.0405 Surcharge Rate Schedule for Above Normal Volume of Wastes

Residential users are considered to be one class of user and are hereby levied a monthly charge as contained in the **RESOLUTION ESTABLISHING CITY SERVICE CHARGES** at the end of this chapter. Non-residential users with flows no greater than the average residential user's flow of 4,000 gallons per month and with

BOD and TSS no greater than the average residential user's strength will be levied the same charge as the average residential user.

Non-residential users with volumes greater than the average residential user will pay an additional charge as contained in the **RESOLUTION ESTABLISHING CITY SERVICE CHARGES** at the end of this chapter per 1,000 gallons per month for all flows greater than the average residential user's flow of 4,000 gallons per month.

7.0406 Surcharge Rate Schedule for Above Normal Strength Wastes

Any non-residential user with BOD and TSS greater than the average residential user's strength will pay a surcharge in accordance with the rates determined by the City or City Engineer.

The City or City Engineer may determine the total suspended solids (TSS) and 5-day biochemical oxygen demand (BOD₅) daily loadings for the average residential user and/or user class or in lieu of such determination can consider the average residential strength wastes to be 200 mg/1 BOD₅ and 250 mg/1 TSS. The City will assess a surcharge rate for all non-residential users discharging wastes with BOD and TSS strengths greater than the average residential user. The surcharge will be sufficient to cover the costs of treating such users above normal strength wastes. Such users will pay an additional user charge as contained in the **RESOLUTION ESTABLISHING CITY SERVICE CHARGES** at the end of this chapter per 1,000 gallons for each 25 mg/1 or fraction thereof over 200 mg/1 of BOD₅ and per 1,000 gallons for each 25 mg/1 or fraction thereof over 250 mg/1 TSS.

7.0407 Determining Each User's Wastewater Service Charge

Each non-residential user's wastewater cost contributions as determined in Sections 7.0405 and 7.0406 shall be added together to determine such user's annual wastewater service charge. Residential users may be considered to be one class of user and an equitable service charge may be determined for each user based on an estimate of the total wastewater contribution of this class of user. The governing body may classify industrial, commercial and other non-residential establishments as a residential user, provided that the wastes from these establishments are equivalent to the wastes from the average residential user with respect to volume, suspended solids and 5-day 20-degree Centigrade biochemical oxygen demand. Each user's wastewater treatment cost contribution will be assessed in accordance with the attached rate schedule.

7.0408 Payment of the User's Wastewater Service Charge

The City may submit an annual statement to the user for the user's annual wastewater service charge or one-twelfth of the user's annual wastewater service charge may be included with the monthly water and/or wastewater utility billing. The City shall add a penalty of 10 percent per month if the payment is not received by the City within thirty (30) days. Should any user fail to pay the user wastewater service charge within two (2) months of the due date, the City may stop the wastewater service to the property.

7.0409 Review of Each User's Wastewater Service Charge

The City shall review the total annual cost of operation and maintenance as well as each user's wastewater contribution percentage on an annual basis and will revise the system as necessary to assure equity of the service charge system established herein and to assure that sufficient funds are obtained to adequately operate and maintain the wastewater system. If a significant user, such as an industry, has completed in-plant modifications which would change that user's wastewater contribution percentages, the user can present at a regularly scheduled meeting of the governing body such factual information and the City shall determine if the user's wastewater contribution percentages are to be changed. The City shall notify the user of its findings as soon as possible.

7.0410 Wastes Prohibited from Being Discharged to the Wastewater System

The discharge of any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater treatment process or to constitute a hazard in the receiving waters of the wastewater treatment plan is hereby prohibited.

ARTICLE 5 - Adoption of State Plumbing Code

7.0501 Adoption

To promote the protect the public health there is hereby adopted the State Plumbing Code, which has been adopted by the State Plumbing Board and approved by the State Health Department, consisting of rules and regulations governing plumbing work, and the whole thereof, of which not less than on (1) copy is on file in the office of the City Auditor, and the same is hereby adopted as fully as if set out at length herein and all plumbing work in the City shall comply with said code.

7.0502 Plumbing Code - Enforcement of Provisions

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

7.0503 Plumbing Code - Changes in Existing Installations

The Water and Sewer Utility Superintendent of the water and sewer department is hereby given authority to order the repair, alteration or removal of any sanitary sewer connection or plumbing, any connection to storm water sewer, or any private sanitary drain, cesspool or privy, which in the Water and Sewer Utility Superintendent's judgment is so installed or is in such condition as to be unsanitary, or to constitute a public nuisance or menace to health. In case of such repair, alteration or removal, if the plumbing code is not observed and connections not properly executed by the owner or owners thereof, in accordance with the Water and Sewer Utility Superintendent's directions, the Water and Sewer Utility Superintendent may cause the same to be discontinued from any source of water supply. It shall thereafter be unlawful for any person in any manner to use any such installation, or to supply water thereto, until the same shall have been put in a safe and sanitary condition according to the Water and Sewer Utility Superintendent's direction.

7.0504 Plumbing Code - New Installations

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

ARTICLE 6 - General Penalty Provision

7.0601 Penalty for Violation of Chapter

Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of an infraction and, upon conviction thereof by a court of competent jurisdiction, shall be subject to a fine of not more than five hundred dollars (\$500) for each violation.

RESOLUTION ESTABLISHING CITY SERVICE CHARGES

Connection Charges: one hundred dollars (\$100.00) for a residential building, commercial building, or multiple dwelling. **Additional requirements:** trailer houses have to have a meter pit installed before connection can be turned on.

Water Meter Testing Fee: \$10.00

Shutting Off or Turning on Water: \$10.00 for each occurrence

For Water: the monthly water charges shall be based on the meter readings of water consumed as follows: a monthly minimum of \$6.10 for each connection up to 1,000 gallons, and \$6.10 per 1000 gallons thereafter.

For Sewer: a flat rate of \$7.50 per month will be charged.

Surcharge: a flat rate of \$5.00 per month will be charged

Garbage: a monthly flat rate of \$10.00 for residents, \$20.00 for nonresidents. Businesses will be charged \$25.00 for 6-yd dumpsters, \$20.00 for 2-yd dumpsters and \$15.00 for 1-yd dumpsters per month. Dumpster charges will also apply to a residential user who wishes to use a dumpster. Mobile home parks and apartments will be charged \$10.00 per unit per month.

Dog and Cat License Fees:

\$3.00 annually for each male dog and each spayed female dog.

\$5.00 annually for each female dog not spayed.

Third dog \$100.00; fourth dog \$300.00; fifth dog \$500.00 annually

\$5.00 annually for each male and female cat.

License fees will not be prorated as to time or year they are originally issued.

Transient Merchant License Fee: \$25.00 per day for each and every day during which any such transient merchants shall transact business in the City.

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CHAPTER EIGHT

BUSINESS REGULATIONS AND LICENSES

ARTICLE 1 - General Provisions

8.0101 Licenses

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

8.0102 Licenses - Application

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

8.0103 Licenses - Granting

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

8.0104 Licenses - Term

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

8.0105 Licenses - Not Transferable

No license or permit shall be assignable or transferable except by permission of the City governing body. No person other than the person to whom the license is granted shall be authorized to do business or act under such license or at any other than the place specified therein. The City may grant the continuance of the business licensed to any other portion of the City, such permission to be certified on the license by the City Auditor. No license shall authorize any person to act under it at more than one (1) place at the same time, or at any other place than is therein

specified. Whoever shall violate any of the provisions of this section shall be deemed to be acting without a license and shall be subject to the same penalty as prescribed for acting without a license.

8.0106 Licenses - Revocation

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

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

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

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

8.0107 Licenses - Posting of

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

8.0108 Licenses - Short Term

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

8.0109 Licenses - Enforcement

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

ARTICLE 2 - Transient Merchants

8.0201 Definitions

For the purpose of this article:

1. "Transient merchant" includes any person, individual, co-partnership or corporation, either as principal or agent, who engages in, does or transacts any temporary or transient business in the City limits, either in one locality or in traveling from place to place selling goods, wares and merchandise who does not intend to become and does not become a permanent merchant of the City and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, structure, lots, tract, railroad car or motor vehicles for the exhibition and sale of such goods, wares and merchandise. The person, individual, co-partnership or corporation so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of or in the name of any local dealer, trader, merchant or auctioneer.
2. "Merchandise" does not include any livestock or agricultural product.

8.0202 License Required

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

8.0203 License Fee

The license fee to be required of all transient merchants for the transaction of such business within the City is hereby fixed at the sum of \$25.00 per day for each and every day during which any such transient merchants shall transact business in the City.

8.0204 License - Application for

Applicants for license under this article, whether an individual, co-partnership or corporation, shall file with the City Auditor a written sworn application, which is included at the end of this chapter, and is signed by the applicant if an individual, by all partners if a partnership and by the president if a corporation, showing:

1. Applicant's name, present residence, present home address, present business address, and if a corporation, under the laws of what state the same is incorporated;
2. The name, present residence, present home address and present business address of the person or persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the City;
3. The residence, business address and type of business in which applicant has been engaged in the previous two (2) years;
4. The residence, business address and type of business in which the person having the management or supervision of applicant's business has been engaged in the previous two (2) years;
5. The place or places in the City, where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business shall be conducted;

6. The kind of business to be conducted;
7. The name and address of the auctioneer, if any, who will conduct the sale; and
8. A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by applicant in the City, the invoice value and quality of such goods, wares and merchandise, whether the same are proposed to be sold from stock in possession or by sample; at auction, by direct sale or by direct sale and by taking orders for future delivery; where the goods or property proposed to be sold are manufactured or produced, and where such goods or products are located at the time the application is filed.

8.0205 Bond

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

8.0206 Service of Process

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

8.0207 Exhibiting License

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

8.0208 Transfer

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

8.0209 Enforcement by Police

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

8.0210 Revocation

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

8.0211 Expiration of License

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

ARTICLE 3 - Hawkers and Peddlers

8.0301 Definitions

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

8.0302 License Required

It shall be unlawful for any person to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a transient merchant license as provided for under Sections 8.0202-8.0211.

ARTICLE 4 - Runners, Solicitors and Canvassers

8.0401 Definitions

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

8.0402 License Required

It shall be unlawful for any person to engage in the business of runners, solicitors and canvassers of any merchandise, article or thing without having first secured a transient merchant license as provided for under Section 8.0202.

ARTICLE 5 - Alcoholic Beverages

8.0501 Definitions

For the purpose of this article:

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

8. "Club" or "lodge" includes any corporation or association organized for civic, fraternal, social or business purposes or the promotion of sports, which has at least 200 members at the time of application for license.
9. "Retail sale" means the sale of alcoholic beverages for use or consumption and not for resale.
10. "Off-sale" means the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license shall authorize the person named therein to conduct such off-sales only at the place designated in such license and not elsewhere, and shall not permit the opening of the package sold on the premises where sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.
11. "On-sale" means the sale of alcoholic beverages for consumption only on the premises where sold, and an on-sale license shall authorize the licensee to conduct such on-sales only at the place designated in such license and not elsewhere.

8.0502 Exceptions

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

8.0503 License Required

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

8.0504 Licenses - Classes of – Fees

The fee for an on and off sale liquor license is three hundred fifty dollars (\$350) per year.

The fee for an on and off sale beer license is two hundred dollars (\$200) per year.

8.0505 Licenses - Terms of

1. All beer licenses issued hereunder shall be for a period of not more than one (1) year and shall expire on the 31st day of December in each year. All liquor licenses issued hereunder shall be for a period of not more than one (1) year and shall expire on the 30th day of June in each year. Where a license is granted for a period less than one (1) year, any subsequent renewal thereof must be made for the full annual term.

2. If an application is made for license hereunder during the license year for the unexpired portion of such year, the fees for said license shall be proportional to represent the number of days which said license will be in effect.

8.0506 License - Qualifications for

No retail license shall be issued to any person unless the applicant shall file a sworn application, which is included at the end of this chapter, accompanied by the required fee, showing the following qualifications:

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

8.0507 Application for Liquor License

Any person desiring a license to sell alcoholic beverages at retail as hereinbefore described shall make and present a written verified application to the City governing body, filed with the City Auditor, containing the following information:

1. The name and address of the applicant; if the applicant is a co-partnership, the name and address and place of residence of each member of said co-partnership; if the applicant is a corporation, the name and address of the officers of the corporation and the manager of the licensed premises.
2. Whether the applicant is a citizen of the United States, and if a naturalized citizen, the date and place of naturalization and place of residence of the applicant for a period of one year last preceding the date of application; if the applicant is a co-partnership the same preceding information for each member of said co-partnership; and if the applicant is a corporation, the date of incorporation, the state where incorporated, the purpose for which said corporation was incorporated and if such corporation is a subsidiary of any corporation, the name of the parent corporation.
3. The legal description and the address of the premises for which license is sought.
4. The date on which the applicant acquired title to the premises sought to be licensed, and if the applicant does not have title to said premises, the name and address of the owner of the premises

together with a copy of the applicant's lease, if written, under which he holds possession of said premises.

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

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

8.0508 License - Application Fitness

The Chief of Police or such other person or officer as may be designated by the governing body shall, upon the filing of an application investigate the facts as stated in the application and the character, reputation and fitness of the applicant and shall report on said matters to the governing body.

8.0509 License - Location of

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

1. The convenience of police regulations.
2. Public health and sanitation.
3. Proximity of other licensed businesses.
4. Proximity of schools, churches, funeral homes, public buildings or buildings used by or for minors.
5. Any protests of neighboring property owners or occupants.
6. Zoning regulations.
7. Proposed on- or off-sale, or both, licensee.
8. Interference with or proximity to residential property.
9. Interference with neighboring property.
10. Suitability of premises for sale of beer, liquor or alcoholic beverages.
11. Public convenience and necessity.

8.0510 License - Granting

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

8.0511 License - Limit to One Location

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

8.0512 License - Posting of

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

8.0513 License - Transfer of

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

8.0514 License Fees - Disposition of

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

8.0515 Hours and Time of Sale - Penalty

A person may not dispense or permit the consumption of alcoholic beverages on a licensed premises between two a.m. and eleven am on Sundays or between the hours of two a.m. and eight a.m. on all other days of the week or who dispenses or permits such consumption on Christmas Day, or after six p.m. on Christmas Eve. In addition a person may not provide off sale service after two a.m. on Thanksgiving Day or between two am and noon on Sundays. A person who violates this section is guilty of an offense, which is punishable by a fine of up to five hundred dollars (\$500) and possible suspension or revocation of license.

8.0516 Licensee's Responsibility

Every licensee is hereby made responsible for the conduct of the licensee's place of business and is required to maintain order and sobriety in such place of business, permitting no disorderly conduct on the premises. Alcoholic beverages shall not be served to any intoxicated person, nor shall any intoxicated person be permitted to remain upon the premises.

8.0516.1 Sunday Alcoholic Beverage Permit - Repealed

8.0517 Gambling Prohibited - Exceptions

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

8.0518 Cashing Certain Checks Prohibited

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

8.0519 Sales Prohibited - Persons

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

8.0520 Minors in Licensed Premises

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

8.0521 Age Identification

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

8.0522 Street Sales Prohibited

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

8.0523 Premises, Equipment of

Premises licensed hereunder for on-sale alcoholic beverages shall be equipped with tables, chairs, booths and stools in a sufficient number to accommodate reasonably the patrons.

8.0524 Closed or Screened Areas

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

8.0525 Purchase from Licensed Wholesaler

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

8.0526 Toilets Required

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

8.0527 Deliveries - Off Licensed Premises

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

8.0528 Termination or Revocation of Licenses

1. Licenses issued pursuant to this article shall be deemed cancelled and terminated upon the happening of any one or more of the following contingencies:
 - a. The death of the licensee unless upon application to the City governing body by personal representative of the decedent, the City governing body consents to the carrying on of the business by the personal representative.
 - b. When the licensee ceases business at the location licensed, unless a new location has been approved.
 - c. When the licensee is adjudged bankrupt.
 - d. When the licensee has been convicted of the violation of any provision of this article, or of the laws of the State of North Dakota pertaining to alcoholic beverages or of a felony under the laws of the United States, the State of North Dakota or of any other state of the United States.
 - e. When the licensee ceases to possess the qualifications required of an applicant for a license as set out in this article.
 - f. When the license or permit of the licensee from the United States Government or the State of North Dakota to sell alcoholic beverages at the location licensed has been terminated or revoked.
 - g. When the licensee ceases to be a legal bona fide resident and citizen of the State of North Dakota.
2. License issued pursuant to this ordinance may, in the discretion of the governing body, be either revoked or suspended for such period of time as deemed appropriate upon the following grounds:
 - a. When the licensee has been convicted of violating any of the provisions of this article.
 - b. When the business of the licensee at the location licensed shall be conducted in violation of health or sanitary regulations or other ordinances of the City.
 - c. When the licensee, if an individual, or one of the partners, if the licensee is a partnership, or one of the officers or the manager if the licensee is a corporation, be convicted in the municipal court of the City of drunkenness or disorderly conduct, or if any appeal is taken from such conviction then when such conviction be sustained by the higher court or courts.

3. Such causes as are hereinbefore detailed shall not be deemed to be exclusive and a license may also be cancelled and revoked or suspended at any time by the City governing body for any cause deemed by the City governing body to be sufficient cause and justified by reason of public health or public morals. Such termination shall be subject only to review by the courts of the State of North Dakota.
4. When any license is terminated or revoked for cause, or the licensee voluntarily ceases business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through the licensee.

8.0529 Penalties

Any person, firm, corporation or association violating any of the provisions of this article shall upon conviction thereof, be subject to a fine of not to exceed five hundred dollars (\$500). In addition, all powers, right and privileges given by any license granted under the terms of this article may be terminated or revoked in accordance with Section 8.0528.

ARTICLE 6 - Shows, Carnivals, Circuses and Special Events

8.0601 License Required

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

8.0602 Fees for

The fees to secure license to conduct the exhibitions under Section 8.0601 shall be determined on a case-by-case basis by the City Commission, and will include items such as cleanup and fire and police protection. A cash deposit for certain items may be required before the show, carnival or circus is licensed by the City.

ARTICLE 7 - Validity

8.0701 Validity

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

ARTICLE 8 - Penalty

8.0801 Penalty

Any person, firm, corporation or association violating any of the terms, articles or provisions of this chapter, for which a specific penalty is not prescribed, shall upon conviction thereof, be punished by a fine not to exceed five hundred dollars (\$500). The court may, in addition thereto, revoke the permit or license of such violator, or terminate or revoke all powers, rights and privileges given by any license granted under the terms of this chapter. Each day or part thereof that a person shall be in violation of the provisions of this chapter shall be considered a separate violation.

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CHAPTER NINE

TRAFFIC

ARTICLE 1- Definitions and General Provisions

9.0101 Definitions

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

1. "Department" means the Department of Transportation of this state as provided by NDCC section 24-02-01.1.
2. "Director" means the Director of the Department of Transportation of this state as provided by NDCC section 24-02-01.3.

9.0102 Parking Privileges for Mobility Impaired - Certificate - Revocation - Continuing Appropriation - Penalty

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, the distinguishing issued under NDCC section 39-10-15 or license plates issued under NDCC section 39-04-10.2 is entitled to courtesy in the parking of the automobile. Provided, however, that any municipality 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 certificate issued under this section must be hung from the rearview mirror of the motor vehicle whenever the vehicle is occupying a space reserved for the mobility impaired and is being used by a mobility impaired person or another person for the purposes of transporting the mobility impaired person. No part of the certificate may be obscured. A fee of five dollars (\$5) may be imposed for a violation of this subsection.
3. If a law enforcement officer finds that the certificate is being improperly used, the officer may report to the Director any such violation and the Director may, in the Director's discretion, remove the privilege. Any person who is not mobility impaired and who exercised the privileges granted mobility impaired person under subsection 1 is guilty of an infraction for which a fine of one hundred dollars (\$100) must be imposed.
4. Whenever any public or private entity designates parking spaces for use by motor vehicles operated by mobility impaired persons, those reserved spaces must comply with the requirements of Americans with Disabilities Accessibility Guidelines for Buildings and Facilities as contained in the appendix to title 28, Code of Federal Regulations, part 36 (28 CFR 36) and must be indicated by blue paint on the curb or edge of the paved portion of the street parking lot adjacent to the space. In addition to blue paint, each reserved space must be indicated by an official sign approved by the Director bearing the internationally accepted symbol of access for the mobility impaired. The sign must indicate that unauthorized use of the space is a nonmoving violation for which a fee of one hundred dollars (\$100) must be imposed. For particular events, a public or private agency may reserve additional parking spaces for use by motor vehicles operated by mobility impaired persons. In that case, each temporarily reserved space must be indicated by a sign or other suitable means. A

sign indicating that a space is reserved for the mobility impaired and blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space, unless the space is a temporary mobility impaired parking space, is sufficient basis for the enforcement of this section. A law enforcement officer shall enforce this section in any parking lot or parking facility, whether publicly or privately owned.

5. A person may not stop, stand, or park any vehicle in any designated parking space that is reserved for the mobility impaired unless the vehicle displays a mobility impaired identification certificate issued by the Director to a mobility impaired person. A mobility impaired person may not permit the use of a certificate issued under this section by a person who is not mobility impaired when that use is not in connection with the transport of the mobility impaired person. The registered owner of a vehicle may not allow that vehicle to be used in a manner that violates this subsection. Proof of intent is not required to prove a registered owner's violation of this subsection. The registered owner, however, may be excused from a violation if the owner provides the citing authority with the name and address of the person operating the vehicle at the time of the violation. A vehicle may temporarily use a space reserved for mobility-impaired persons without a mobility-impaired certificate for the purpose of loading and unloading mobility-impaired persons. A violation of this subsection is a nonmoving violation for which a fee of one hundred dollars (\$100) must be imposed. Notwithstanding NDCC section 29-27-02.1, fifty percent of the fee imposed and collected under this subsection is appropriated on a continuing basis to the local committee on persons with disabilities, if one exists in the city in which the violation occurred, for the development of job opportunities for disabled individuals in the community.
6. Any motor vehicle licensed in another state which displays a special authorized vehicle designation issued by the licensing authority of that state for vehicles used in the transportation of mobility impaired persons must be accorded the same privilege provided in this section for similar vehicles licensed in this state if the laws of the other state provide the same privileges to North Dakota motor vehicles displaying the special identifying certificate authorized in this section.

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 this city and all of the state vehicle laws, to make arrests for traffic violations, to investigate accidents and to cooperate with the city Traffic Engineer and other officers of the city in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out the traffic ordinances of this city.

9.0202 Records of Traffic Violations

1. The Police Department shall keep a record of all violations of the traffic ordinances of this 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. Said 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, to arrest and to 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 NDCC section 39-08-09 either at the time and at the scene of the accident or thereafter by interviewing the participants, or witnesses, shall make and forward promptly a written report of such accident to the Director of the North Dakota Department of Transportation.

ARTICLE 3 - Enforcement and Obedience to Traffic Regulations

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 thereat or in the immediate vicinity.

9.0302 Public Employees to Obey Traffic Regulations

The provisions of this chapter shall apply to the drivers of all vehicles owned or operated by the United States, this state, or any county, town, district, or any other political subdivision of the state, subject to such specific exceptions as are set forth in this chapter or in the state vehicle code.

9.0303 Radar Evidence in Speed Violations

The provisions of North Dakota Century Code Section 39-03-15 and all subsequent amendments shall be and 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 as 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 his badge of authority; provided that such officer has observed the record of the speed of such motor vehicle by the radio microwaves or other electrical 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.

ARTICLE 4 - Motor Vehicle Registration

9.0401 Display of Number Plates and Tabs

Except as otherwise specifically provided, a person may not operate or drive a vehicle on the public highways of this state unless the vehicle has a distinctive number assigned to it by the Department, and two number

plates, bearing the distinctive number conspicuously displayed, horizontally and in an upright position, one on the front and one on the rear of the vehicle, each securely fastened, except number plates assigned to a motorcycle, trailer, or house trailer must be attached to the rear thereof. When only one number plate is furnished for an apportioned vehicle licensed under the international registration plan as authorized in NDCC section 39-19-04, truck tractor or semitrailer, the plate must be attached to the front of the apportioned vehicle or truck tractor and the rear of the semitrailer. The bottom of each number plate must be at a height of not less than twelve (12) inches above the level surface upon which the vehicle stands. Each plate must be mounted in a manner that does not cover any words, letter, or number on the plate. As far as is reasonably possible, the plates must at all times be kept free and clear of mud, ice or snow so as to be clearly visible and all number plates, markers, or evidence of registration or licensing except for the current year must be removed from the vehicle. All vehicle license plates issued by the Department continue to be the property of the State of North Dakota for the period for which the plates are valid. An annual registration tab or sticker for the current registration year must be displayed on each number plate, in the area designated by the Department for the tab or sticker, in those years for which tabs or stickers are issued in lieu of number plates.

9.0402 Motor Vehicle Exceeding Gross Weight for Which Licensed Not to be Operated on Highway – Exception

Except as otherwise provided by law, a motor vehicle, or a combination of motor vehicles, may not be operated upon the highways of this state when the gross weight exceeds the gross weight for which the vehicle or combination of vehicles was licensed. Any person violating the provisions of this section will be required to license such motor vehicle at the higher legal rate in accordance with the weight carried by the motor vehicle at the time of the violation for the entire license period. However, such registration may not be construed to authorize the movement of loads in violation of NDCC chapter 39-12.

9.0403 Violations of Registration Provisions

It is unlawful for any person to commit any of the following acts:

1. To operate, or for the owner thereof knowingly to permit anyone to operate, upon a highway any vehicle the registration of which has been canceled or revoked, or for which the registration fees required in this title have not been paid or which does not have attached thereto and displayed thereon a number plate, plates, or validation tabs assigned thereto by the Director for the current registration period, subject to the exemptions allowed in Chapter 39 of the North Dakota Century Code.
2. To display or cause or permit to be displayed or to have in possession, any registration card, registration number plate, or validation tabs knowing the same to be fictitious or to have been canceled, revoked, suspended or altered.
3. To lend any registration number plate, registration card, or validation tabs to any person not entitled there to, or knowingly permit the use of any registration number plate or registration card by any person not entitled thereto.

9.0404 Registration Card to be Carried in or on Vehicle - Inspection of Card - Penalty

The registration card issued for a vehicle must be carried in the driver's compartment of the vehicle or, in the case of a house trailer or mobile home or a trailer or semitrailer, regardless of when such vehicle was acquired, inside or on the vehicle, at all times while the vehicle is being operated upon a highway in this state. The card is subject to inspection by any peace officer or highway patrol officer. Any person violating this section must be assessed a fee of twenty dollars (\$20). However, a person cited for violation of this section may not be found to have committed the violation if the person, within forty-eight (48) hours after being cited, produces and displays to any peace officer or highway patrol officer, or to the hearing official before whom the person was to appear, a registration card valid at the time the person was cited. A peace officer or highway patrol officer, upon citing a

person for violating this section, shall inform the person that a violation will be considered as not having occurred if the person produces and displays a valid registration card in the manner provided in this section. A peace officer or highway patrol officer receiving evidence of the existence of a valid registration card as herein provided shall notify the hearing official of the appropriate jurisdiction of that fact.

ARTICLE 5 - Operators' License

9.0501 Operators Must be Licensed - Additional Licensing - Penalty

1. A person, unless expressly exempted in this section, may not drive any 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 unless the person has a valid license as an operator under the provisions of this chapter or a temporary operator's permit issued under NDCC chapter 39-20. A person may not receive an operator's license unless and until that person surrenders to the Director all operator's licenses issued to the person by any jurisdiction. When a license issued by another jurisdiction is surrendered, the Director shall notify the issuing jurisdiction of its surrender. A person may not have more than one valid operator's license at any time.
2. Any person licensed as an operator hereunder may exercise the privilege thereby granted upon all streets and highways in this state and may not be required to obtain any other license to exercise such privilege by any county, municipal or local board, or body having authority to adopt local police regulations, except that municipalities may license draymen, parcel deliverymen, bus drivers, taxi drivers, porters, expressmen, watermen, and others pursuing like occupations, and the operation of taxicabs, as provided by NDCC subsection 27 of section 40-05-01.

9.0502 Instruction Permit

Any person who is at least fourteen years of age may apply to the Director for an instruction permit. The Director may issue to the applicant an instruction permit that entitles the applicant while having such permit in permittee's immediate possession to drive a motor vehicle upon the public highways for a period of one year when accompanied by a licensed operator who holds a license corresponding to the vehicle the permittee operates, who is at least eighteen years of age, who has had at least three years of driving experience and who is occupying a seat beside the driver. An individual other than the supervising driver and the permit holder may not be in the front seat unless the vehicle has only a front seat, in which case, the supervising driver must be seated next to the permit holder. Persons holding an instruction permit for the operation of a motorcycle shall operate the motorcycle only during hours when the use of headlights is not required pursuant to NDCC section 39-21-01, and may not carry or transport any passenger. Any instruction permit may be renewed or a new permit issued for an additional period. A person who is not yet eighteen years of age is not eligible for a license until that person has had an instruction permit issued for at least three months. The Director may recognize an instruction permit issued by another jurisdiction in computing the six-month instructional period.

9.0503 Drove Vehicle Other Than Permitted by Class

Any holder of a classified license who drives a motor vehicle otherwise than as permitted by the class of license issued to him must be deemed to be driving a motor vehicle without being duly licensed by NDCC section 39-06-01.

9.0504 License to be Carried and Exhibited on Demand

Every 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 Department. However, no person charged with violating this section may 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.

9.0505 Restricted Licenses

A restricted license issued under subsection 3 of NDCC 39-06-17 to a child at least fourteen years of age to operate a parent's or guardian's automobile authorizes the license holder to drive the type or class of motor vehicle specified on the restricted license only under the following conditions.

1. A restricted license holder must be in possession of the license while operating the motor vehicle.
2. An individual holding a restricted driver's license driving a motor vehicle may not carry more passengers than the vehicle manufacturer's suggested passenger capacity.

9.0506 Notice of Change of Address or Name

Whenever a person after applying for or receiving an operator's license or permit moves from the address named in the application or in the license or permit issued to that person or when the name of a licensee is changed by marriage or otherwise, that person shall within ten days thereafter notify the Director in writing or in person of that person's old and new addresses or of such former and new names and of the number of any license or permit then held by that person. A person may obtain a corrected license or permit by making application as provided for in NDCC section 39-06-18. In the event of a name change, a corrected license must be obtained. The Department may change the address based on information received from any authorized address correction service of the United States postal service.

9.0507 Permitting Unauthorized Minor to Drive

No person shall cause or knowingly permit his 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.

9.0508 Permitting Unauthorized Person to Drive

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized under the laws of this state.

ARTICLE 6 - Disposition of Traffic Offenses

9.0601 Traffic Violations Noncriminal - Exceptions – Procedures

Any person cited, in accordance with the provisions of Sections 39-07-07 and 39-07-08 of the North Dakota Century Code, for a traffic violation under state law or municipal ordinance, other than an offense listed in Section 39-06.1-05 of the North Dakota Century Code, shall be deemed to be charged with a noncriminal offense and may appear before the designated official and pay the statutory fee for the violation charged at or prior to the time scheduled for a hearing, or, if he has posted bond in person, as provided by Section 39-07-07 of the North Dakota Century Code, or by mail, he may forfeit bond by not appearing at the designated time. If the person appears at the time scheduled in the citation, he may make a statement in explanation of his action, and the official may at that time, in his discretion, waive, reduce, or suspend the statutory fee or bond, or both. If the person cited follows the foregoing procedures, he shall be 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 shall 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 per hour and the miles 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.

9.0602 Notify Parents or Guardians of Juvenile Traffic Offenders

The Municipal Judge or their 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.

9.0603 Administrative Hearing - Procedures - Appeals -Stay Orders

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

1. If a person cited for a traffic violation, other than an offense listed in NDCC Section 39-06.1-05, does not choose to follow one of the procedures set forth in NDCC Section 39-06.1-02, he may request a hearing on the issue of his commission of the violation charged, the hearing to be held at the time scheduled in the citation or at some future time, not to exceed ninety (90) days later, set at the 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 NDCC Section 39-06.1-05, who has requested a hearing on the issue of the commission of the violation charged, 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 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, he 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 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, shall 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, he may, without payment of a filing fee, appeal that finding to the district court or county 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 shall 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 shall be served upon the prosecuting attorney. An appeal taken under this subsection shall 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 shall 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 two dollars (\$2). Any order granting a stay or a temporary certificate shall 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 shall 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 shall be guilty of a traffic violation and shall be assessed a fee of twenty dollars (\$20).

- 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 for the city wherein the alleged violation occurred 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 NDCC 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 district judge, a judge of a county court, a municipal judge, or, when provided by statute, a person appointed by a district judge to serve as such official for all or a specified part of a judicial district.

9.0604 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 shall be and are hereby incorporated by reference in this ordinance.

If a person fails to choose one of the methods of proceeding set forth in NDCC sections 39-06.1-02 or 39-06.1-03, he shall 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 shall be a class B misdemeanor. Failure to appear without just cause at the hearing shall also be deemed an admission of commission of the violation charged.

9.0605 Offenses Excepted

The provisions of North Dakota Century Code Section 39-06.1-05 and all subsequent amendments shall be

and 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 NDCC section 39-08-01 or an equivalent ordinance.
2. Reckless driving or aggravated reckless driving in violation of NDCC section 39-08-03 or an equivalent ordinance.
3. A violation of NDCC chapter 12.1-16 resulting from the operation of a motor vehicle.
4. Leaving the scene of an accident in violation of NDCC sections 39-08-04, 39-08-05, 39-08-07 or 39-08-08 or equivalent ordinances.
5. Driving while license or driving privilege is suspended or revoked in violation of NDCC section 39-06-42 or an equivalent ordinance.
6. Violating subdivisions b or c of subsection 5 of NDCC section 39-24-09.
7. Operating an unsafe vehicle in violation of subsection 1 of NDCC section 39-21-46.
8. Causing an accident with an authorized emergency vehicle or a vehicle operated by or under the control of the Director used for maintaining the state highway system in violation of NDCC section 39-10-26.

9.0606 Amount of Statutory Fees

The fees required for a non-criminal disposition pursuant to either NDCC section 39-06.1-02 or 39-06.1-03 shall be as provided in NDCC 39-06.1-06, which is incorporated herein by reference.

9.0607 Nonmoving Violation – Defined

For the purpose of NDCC section 39-06.1-06, a “nonmoving violation” shall be as defined in NDCC 39-06.1-08, which is incorporated herein by reference.

9.0608 Moving Violation – Defined

For the purpose of NDCC section 39-06.1-06, a "moving violation" shall be as defined in NDCC 39-06.1-09, which is incorporated herein by reference.

ARTICLE 7 - General Regulations Governing Traffic

9.0701 Bicycle or Ridden Animal Deemed Vehicle

For the purposes of NDCC Articles 39-08 through 39-13, a bicycle or a ridden animal must be deemed a vehicle.

9.0702 Authority to Designate Through Streets

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

The Director with reference to state highways, and local authorities, 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.

9.0703 Through Streets Designated

There are no streets and parts of streets currently declared to be through streets for the purpose of this chapter.

9.0704 General Penalty for Violation of Chapter

The provisions of North Dakota Century Code section 39-07-06 and all subsequent amendments shall be and 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 shall be guilty of an infraction. 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 sanction which may be imposed.

9.0705 Halting Person for Violating Traffic Regulations - Duty of Officer Halting

The provisions of North Dakota Century Code section 39-07-07 and all subsequent amendments shall be and 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 NDCC section 39-07-09 and NDCC section 39-20-03.1 or 39-02-03.2 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 employed by any political subdivision of the state 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 noncriminal offense under NDCC section 39-06.1-02. The officer shall provide the person with an envelope for use in mailing the bond.

9.0706 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 shall be and are hereby incorporated by reference in this ordinance.

The time to be specified in the summons or notice provided for in NDCC section 39-07-07 must be within thirty-five (35) days after the issuance of such summons or notice unless the person halted shall demand an earlier hearing, and 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 of the city in which the offense was committed. Upon the receipt from the person halted of a written promise to appear at the

time and place mentioned in the summons or notice, such officer shall release him from custody. Any person refusing to give such written promise to appear shall 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 a class B misdemeanor, regardless of the disposition of the charge upon which the person originally was halted. The time limitations for a hearing as provided by this ordinance 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 ordinance.

9.0707 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 shall be and are hereby incorporated by reference in this ordinance.

The provisions of Article 39-07-07 shall not apply to a person if:

1. The halting officer shall have good reason to believe such person guilty of any felony or when such person is halted and charged with any of the offenses listed in Section 39-06.1-05, NDCC, but not listed in subsection 2; or
2. The halting officer, acting within the officer's discretion, determines that it is inadvisable to release such 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, NDCC, or an equivalent ordinance.
 - d. Driving without liability insurance in violation of section 39-08-20.
 - e. Failing to display a placard or flag, in violation of any rule implementing section 39-21-44, NDCC, while transporting explosive or hazardous materials.
 - f. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46, NDCC.

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

9.0708 Magistrate to Keep Record of Convictions of Traffic Violations - Records of Conviction to be Forwarded to Licensing Authority

Every magistrate, as defined in NDCC section 29-01-14, shall keep a full record of every case brought before the magistrate in which a person is charged with a violation of NDCC chapter 12.1-16 resulting from the operation of a motor vehicle, or of any provision of NDCC chapter 12.1-16 resulting from the operation of a motor vehicle, or of any provision of NDCC chapters 39-05 through 39-13, 29-21, and 39-24, or with a violation of a municipal ordinance which is equivalent to any of the provisions of the foregoing statutes. Within ten days after a final order or judgment of conviction, for a violation not subject to disposition and reporting under NDCC chapter 39-06.1, by the North Dakota supreme court or any lower court having jurisdiction, provided that no appeal is pending and the time for filing a notice of appeal has elapsed, the magistrate then having jurisdiction shall forward a report of that fact to the licensing authority. If the reported violation caused another person's serious bodily injury,

as defined in NDCC section 12.1-01-04, the magistrate shall include that information in the report. Any conviction for which a report is received by the licensing authority may be deemed by the licensing authority to be final, and the licensing authority may take any action authorized by law to be taken based on the report. Subject to the filing of an appeal, a conviction includes those instances when:

1. A sentence is imposed and suspended;
2. Imposition of a sentence is deferred under subsection 4 of NDCC section 12.1-32-02; or
3. There is a forfeiture of bail or collateral deposited to secure a defendant's appearance in court of the forfeiture has not been vacated.

9.0709 Written Report of an Accident - 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 NDCC section 39.0809 (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 shall be removed.

ARTICLE 8 - Regulations Governing Operators

9.0801 Exhibition Driving and Drag Racing -Definitions - Penalty

The provisions of North Dakota Century Code Section 39-08-03.1 and all subsequent amendments shall be and 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 (\$50). 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 (\$100).
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 outdistance 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 racing 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.

9.0802 Immediate Notice of Accident - Penalty

1. The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to an apparent extent of at least one thousand dollars (\$1,000) shall immediately give notice of such accident to the local Police Department if the accident occurs within a municipality, otherwise to the office of the County Sheriff or the State Highway Patrol. Any person who violates this section must be assessed a fine of fifty dollars (\$50). 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.
2. The Director may suspend the license or permit to drive and any nonresident operating privileges of any person failing to comply with the duties as provided in section 39-08-06 through 39-08-09 of the North Dakota Century Code until such duties have been fulfilled, and the Director may extend such suspension not to exceed thirty (30) days.
3. The driver of a vehicle involved in an accident with an undomesticated animal resulting only in property damage to the driver's vehicle is exempt from the requirements of this section, regardless of the amount of damage to the driver's vehicle.

9.0803 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 NDCC section 39-08-09 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 a report of the accident in a format prescribed by the Director.

9.0804 When Driver Unable to Report

1. An accident notice is not required from any person who is physically incapable of making the report during the period of such incapacity.
2. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident and there was an 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.
3. 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.

9.0805 Open Bottle Law – Penalty

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

1. A person may not drink or consume alcoholic beverages as defined in NDCC section 5-01-01 in or on any motor vehicle when such vehicle is upon a public highway or in an area used principally for public parking. No person shall have in his possession on his 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 such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It shall be 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 such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle shall be 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 shall be deemed to be within the area occupied by the driver and passengers. The provisions of this section shall not prohibit the consumption or possession of alcoholic beverages in a house car, as defined in NDCC section 39-01-01, if the consumption or possession occurs in the area of the house car used as sleeping or living quarters and that area is separated from the driving compartment by a solid partition, door, curtain or some similar means of separation; however, consumption is not authorized while the house car is in motion. Any person violating the provisions of this section shall be assessed a fee of fifty dollars (\$50); however, the licensing authority shall not record the violation against the driving record of such person unless he was the driver of the automobile 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.

ARTICLE 9 - Speed Restrictions

9.0901 Basic Rules - Penalty for Violation

No person may 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 drives 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).

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 show 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.

9.0902 Care Required in Operating Vehicle

The provisions of North Dakota Century Code Section 39-09-01.1 and all subsequent amendments shall be and 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 reasonably 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.

9.0903 Speed Limitations

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

9.0904 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 shall be and are hereby incorporated by reference in this ordinance.

1. Whenever the local authorities in their respective jurisdictions, on the basis of an engineering and traffic investigation, determine 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. Local authorities in their respective jurisdictions 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 maximum 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 municipality shall not be effective until such alteration has been approved by the Director.
5. Not more than six (6) such alterations as hereinabove authorized may 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.

9.0905 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 shall be and are hereby incorporated by reference in this ordinance.

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

9.0906 Minimum Speed Limits

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

1. No person shall drive a motor vehicle at such a slow speed 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. Whenever the Director and the Superintendent of the Highway Patrol, acting jointly, or the city, determine on the basis of engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the Director and Superintendent or the city may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs.

9.0907 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.

ARTICLE 10 - General Rules of the Road

9.1001 Obedience to Traffic Ordinances

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

9.1002 Obedience to Police Officers or Firemen

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

9.1003 Certain Nonmotorized Traffic to Obey Traffic Regulations

1. Every person propelling any push cart 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 an 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.

9.1004 Emergency Vehicles

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

9.1005 Obedience to Traffic Control Devices

The provisions of North Dakota Century Code Section 39-10-04 and all subsequent amendments shall be and 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 positions approximately conforming to the requirements of this title, 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 this title and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this title, unless the contrary shall be established by competent evidence.

9.1006 Unauthorized Signs, Signals or Markings

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

1. No person shall 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 shall 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 shall 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 shall 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.

9.1007 Interference with Official Traffic Control Device or Sign

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

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

9.1008 Drive on Right Side of Roadway – Exceptions

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

1. Upon all roadways of sufficient width a vehicle shall 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
 - d. Upon a roadway restricted to one-way traffic.
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 shall 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 shall 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.

9.1009 Passing Vehicles Proceeding in Opposite Direction

The provisions of North Dakota Century Code Section 39-10-09 and all subsequent amendments shall be and 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.

9.1010 Overtaking a Vehicle on the Left

The provisions of North Dakota Century Code Section 39-10-11 and all subsequent amendments shall be and 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.

9.1011 When Overtaking on the Right is Permitted

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

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

9.1012 Limitations on Overtaking on the Left

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

No vehicle shall 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 (200) feet of any approaching vehicle.

9.1013 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 shall be and 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.
2. The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in NDCC section 39-10-08 nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

9.1014 No-Passing Zones

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

1. The Director and local authorities 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 be 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 39-10-08 nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

9.1015 Driving on Roadways Laned for Traffic

The provisions of North Dakota Century Code section 39-10-17 and all subsequent amendments shall be and 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 shall 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 shall 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.

9.1016 Following Too Closely

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

1. The driver of a motor vehicle shall 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 shall 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 shall 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 shall not apply to funeral processions.

9.1017 Driving on Divided Highways

The provisions of North Dakota Century Code Section 39-10-19 and all subsequent amendments shall be and 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 dividing section so construed as to impede vehicular traffic, every vehicle shall 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 shall 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.

9.1018 Restricted Access

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

No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and

exits as are established by public authority.

9.1019 Restrictions on Use of Controlled-Access Roadway

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

1. The Director may by order, and the city 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.
2. The Director or the city, 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 shall disobey the restrictions stated on such signs.

9.1020 Closing Road Because of Hazardous Conditions - Posting of Official Traffic-Control Devices - Entering Closed Road Prohibited

The highway patrol or local law enforcement authorities having jurisdiction over a road may close a road temporarily due to hazardous conditions for the protection and safety of the public. If such a closing is made, the authority ordering the closing shall make every reasonable attempt to notify the public and, when practical, may post appropriate official traffic-control devices to advise motorists of the closing. No person, while operating a motor vehicle, may knowingly enter a road closed under this section.

9.1021 Vehicle Approaching or Entering Intersection

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

1. When two vehicles approach or enter an intersection that does not have 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 does not have 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. If a vehicle approaches an intersection that has traffic control signals that usually exhibit different colored lights and the signals are not lit, the driver of the vehicle shall stop and yield as required under subsection 3 of 9.1023.
3. The right-of-way rule declared in this section is modified at through highways and otherwise as stated in this chapter.

9.1022 Vehicle Turning Left at Intersection

The provisions of North Dakota Century Code Section 39-10-23 and all subsequent amendments shall be and 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.

9.1023 Failed to Yield at Stop Intersection

1. Preferential right-of-way may be indicated by stop signs or yield signs as authorized in NDCC section 39-07-03.
2. Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, or if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersection roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.
3. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop sign, or, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersection roadway before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Provided, however, that if the driver is involved in a collision with a vehicle in the intersection or junction of roadways after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield the right-of-way.

9.1024 Vehicle Entering Roadway

The provisions of North Dakota Century Code Section 39-10-25 and all subsequent amendments shall be and 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.

9.1025 Operation of Vehicles on Approach of Authorized Emergency Vehicles

The provisions of North Dakota Century Code Section 39-10-26 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

9.1026 Highway Construction and Maintenance

1. The driver of a vehicle shall yield the right of way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any highway construction or maintenance area indicated by official traffic-control devices.
2. The driver of a vehicle shall yield the right of way to any authorized vehicle obviously and actually engaged in work upon a highway wherever such vehicle displays flashing lights meeting the requirements of NDCC section 39-21-28.

9.1027 Permitting use of Vehicle to Violate NDCC Section 39-10-26 Prohibited - Presumption of Permission - Defense - Dual Prosecution Prohibited

The registered owner of a motor vehicle may not permit that motor vehicle to be operated in violation of NDCC section 39-10-26. If a motor vehicle is seen violating NDCC section 39-10-26, it is a disputable presumption that the registered owner of the motor vehicle permitted that violation. It is a defense to a charge of violating this section that the registered owner of the vehicle was not operating the vehicle, if that registered owner identifies the person authorized by that owner to operate the motor vehicle at the time of the violation of NDCC section 39-10-26,

or if that motor vehicle had been taken without the registered owner's permission. A person may not be charged both with violating this section and with violating NDCC section 39-10-26. Violation of this section is not a lesser included offense of violation of NDCC section 39-10-26.

9.1028 Pedestrian Obedience to Traffic Control Devices and Traffic Regulations

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

1. A pedestrian shall obey the instructions of any official traffic control device specially applicable to him, unless otherwise directed by a police officer.
2. Pedestrians shall be subject to traffic and pedestrian-control signals as provided for in NDCC sections 39-10-04 and 39-10-07.3.

9.1029 Pedestrians' Right-of-way in Crosswalks

The provisions of North Dakota Century Code Section 39-10-28 and all subsequent amendments shall be and 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 shall 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 shall not apply under the conditions stated in subsection 2 of NDCC section 39-10-29.
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 shall not overtake and pass such stopped vehicle.

9.1030 Crossing at other than Crosswalks

The provisions of North Dakota Century Code Section 39-10-29 and all subsequent amendments shall be and 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 shall not cross at any place except in a marked crosswalk.
4. No pedestrian shall 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.

9.1031 Drivers to Exercise Due Care

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

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

9.1032 Pedestrians to use Right Half of Crosswalks

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

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

9.1033 Pedestrians on Roadways

The provisions of North Dakota Century Code Section 39-10-33 and all subsequent amendments shall be and 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.

9.1034 Pedestrians' Right-of-way on Sidewalks

The provisions of North Dakota Century Code Section 39-10-33.1 and all subsequent amendments shall be and 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.

9.1035 Pedestrians Yield to Authorized Emergency Vehicles

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

1. Upon the immediate approach of an authorized emergency vehicle making use of an audible signal by bell, siren, or exhaust whistle and displaying a visible flashing revolving, or rotating blue, white or red light, every pedestrian shall yield the right-of-way to the authorized emergency vehicle.
2. This section shall 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.

9.1036 Blind Pedestrians' Right-of-way

The provisions of North Dakota Century Code Section 39-10-33.3 and all subsequent amendments shall be and 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 a guide dog.

9.1037 Pedestrians Under Influence of Alcohol or Drugs

The provisions of North Dakota Century Code Section 39-10-33.4 and all subsequent amendments shall be and 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 him a hazard shall not walk or be upon a roadway.

9.1038 Bridge and Railroad Signals

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

No pedestrian shall 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.

9.1039 Pedestrians Soliciting Rides or Business

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

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

9.1040 Required Position and Method of Turning at Intersection

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 at an intersection shall do so as follows:

1. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway;
2. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.

Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection;

3. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered; and
4. The city may cause markers, buttons, or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when markers, buttons, or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons, or signs.

9.1041 Limitations on Turning Around

The provisions of North Dakota Century Code Section 39-10-36 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.
2. No vehicle shall 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.

9.1042 Starting Parked Vehicle

No person may start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

9.1043 Turning Movements and Required Signals

The provisions of North Dakota Century Code Section 39-10-38 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. No person shall turn a vehicle at an intersection less the vehicle is in proper position upon the roadway as required in NDCC section 39-10-35 or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic may be affected by such movement;
2. A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning;
3. No person shall 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 NDCC section 39-10-39 shall 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.

9.1044 Signals by Hand and Arm or Signal Lamps

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

1. Any stop or turn signal when required herein shall 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 shall be equipped with, and required signals shall 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, 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. The latter measurement shall apply to any single vehicle and to any combination of vehicles.

9.1045 Methods of Giving Hand and Arm Signals

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

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall 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.

9.1046 Obedience to Signal Indicating Approach of Train

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

1. Whenever any person driving a vehicle approaches a rail-road grade crossing under any of the circumstances state 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 shall 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 shall 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 shall drive any vehicle past any human flagman at a railroad crossing until the flagman signals that the way is clear to proceed.

9.1047 Disregarding Stop Sign

1. Preferential right-of-way may be indicated by stop signs or yield signs as authorized in NDCC section 39-07-03.
2. 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 no crosswalk, then as near as practicable to the nearest line of the intersecting roadway.
3. 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.
4. 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.

9.1048 Emerging from Alley or Driveway - Right of Way

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.

9.1049 Overtaking and Passing School Bus

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

1. The driver of a vehicle meeting or overtaking from either direction of 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, the stop sign on the control arm, or the safety strobe lights specified in NDCC section 39-21-18, and the driver may not proceed until such school bus resumes motion or he is signaled by the school bus driver to proceed or the flashing red lights, the stop sign on the control arm, and the safety strobe lights are no longer actuated.
2. Every school bus must bear upon the front and rear thereof plainly visible signs containing the word "SCHOOL BUS" 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 "SCHOOL BUS" shall 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 shall be equipped with safety lights and must be equipped with a stop sign on a control arm and red visual signals meeting the requirements of NDCC section 39-21-18, which may be actuated by the driver of the school bus whenever the vehicle is stopped on the highway to receive or discharge school children. A school bus driver may not actuate the stop sign or the special visual signals:
 - a. On city streets on which the receiving or discharging of school children is prohibited by ordinance;
 - b. At intersections or other places where traffic is controlled by traffic-control signals or police officers; or
 - c. In designated school bus loading areas where the bus is entirely off the roadway.
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 SCHOOL BUS STOPS AT ALL RAILROAD CROSSINGS."

9.1050 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 shall be and are hereby incorporated by reference in this ordinance.

9.1051 Officers Authorized to Remove Illegally Stopped Vehicles

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

9.1052 Stopping, Standing or Parking Prohibited in Specified Places

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

No person shall 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 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.
15. Within fifteen (15) feet of the corner or curb corner of any intersecting street, road, highway or alley.
16. In front of a residential sidewalk so as to block the area where a walkway intersects and extends from the curb toward the entrance of a residence.

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

9.1053 Additional Parking Regulations

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

1. Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall 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 shall 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 may permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or state highway without first obtaining the written authorization of the Director.

4. The 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 shall stop, stand or park any vehicle in violation of the restrictions indicated by such devices.

9.1054 Unattended Motor Vehicle

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

No person driving or in charge of a motor vehicle shall 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.

9.1055 Parking Violations - Lessor Responsibility

The registered owner of a motor vehicle stopped, standing or parked in violation of this chapter or NDCC section 39-10-51.1 or an equivalent ordinance is not responsible for the violation if the owner furnishes an affidavit indicating that the vehicle was at the time of the violation in the care, custody, or control of another person pursuant to a lease or rental agreement. The affidavit must contain the name, address, and operator's license number of the person to whom the vehicle was leased or rented at the time of the violation and must be submitted to the appropriate clerk of court within thirty (30) days of notification to the owner of the violation. The owner is responsible for the violation and the payment of any fees or fines if the affidavit is not submitted within the thirty-day period.

9.1056 Limitations on Backing

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

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

9.1057 Driving Upon Sidewalk

No person may drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

9.1058 Obstruction to Driver's View or Driving Mechanism

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

1. No person shall 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 shall 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.

9.1059 Opening and Closing Vehicle Doors

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

No person shall 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 shall 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.

9.1060 Coasting Prohibited

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

1. The driver of any motor vehicle when traveling upon a down grade shall 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 shall not coast with the clutch disengaged.

9.1061 Following Fire Apparatus Prohibited

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

9.1062 Crossing Fire Hose

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

No vehicle shall 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.

9.1063 Garbage, Glass, etc., on Highways Prohibited

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

1. No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans rubbish, or any other substance likely to injure any person, animal or vehicle.
2. Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.
3. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

9.1064 Driving Through Safety Zone Prohibited

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

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

9.1065 Moving Heavy Equipment at Railroad Grade Crossings

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

1. No person shall 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 shall 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 shall be under his direction.

9.1066 Stop When Traffic Obstructed

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

No driver shall 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 he is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic-control signal indication to proceed.

9.1067 Driving Through Funeral or Other Procession

The provisions of the North Dakota Century Code Section 39-10-72 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

9.1068 When Permits Required for Parades and Processions

No funeral, procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles except the Armed Forces of the United States, the military forces of this state and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the Chief of Police and such other regulations as are set forth herein which may apply.

9.1069 Use of Skateboards, Rollerblades, Roller Skates and other Similar Devices Restricted

No person upon roller skates, roller blades, skate board, toy vehicle, any coaster or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized herein.

ARTICLE 11 - Regulations for Bicycles

9.1101 Effect of Regulations - Penalty

1. It is unlawful for any person to do any act forbidden or fail to perform any act required in this article. Any person who violates any of the provisions of this article may be assessed a fee not to exceed five dollars (\$5)
2. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this ordinance.
3. These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

9.1102 Traffic Ordinances Apply to Persons Riding Bicycles

Every person riding a bicycle 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 as to special regulations in this article and except as to those provisions of this ordinance which by their nature can have no application.

9.1103 Riding on Bicycles - Motorized Bicycles

1. A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.
2. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

9.1104 Clinging to Vehicles

The provisions of North Dakota Century Code Section 39-10.4-04 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway, except a sled being pulled by a snowmobile.

9.1105 Riding on Roadways and Bicycle Paths

The provision of North Dakota Century Code Section 39-10.1-05 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
2. Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.
3. Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

9.1106 Carrying Articles

The provisions of North Dakota Century Code Section 39-10.1-06 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

The person operating a bicycle shall not carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.

9.1107 Lamps and other Equipment on Bicycles

The provisions of North Dakota Century Code Section 39-10.1-07 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

9.1108 Point System Not Applicable

The provisions of North Dakota Century Code Section 39-10.1-08 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Any violation of the provisions of this article, or any moving violation as defined in NDCC section 9.2010, or any nonmoving violation as defined in NDCC section 9.2009 when committed on a bicycle as defined in NDCC section 39-01-01, is not cause for the licensing authority to access points against the driving record of the violator pursuant to North Dakota Century Code Section 39-06.1-10. Any other legally authorized penalty for a criminal traffic offense or noncriminal traffic violation is applicable to bicyclists.

9.1109 Obedience to Traffic Control Devices

1. Any person operating a bicycle shall obey the instructions of official traffic-control devices applicable to vehicles, unless otherwise directed by a police officer.
2. Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

9.1110 Use of Bicycles, Roller Skates, Roller Blades, Skate Boards, and Other Similar Devices on Sidewalks Restricted.

1. No person upon a bicycle, roller skates, roller blades, skate board or any coaster or similar device shall ride upon a sidewalk bordering a business establishment or upon any sidewalk within a business district.
2. The Chief of Police or authorized person may erect signs on any sidewalk or roadway prohibiting the riding of bicycles, roller skates, roller blades, skate boards, or other similar devices thereon by any person and when such signs are in place no person shall disobey the same.
3. Whenever any person upon a bicycle, roller skates, roller blades, skate boards, or other similar device riding upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

9.1111 Parking

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

9.1112 Cycle Racing Prohibited

It shall be unlawful for any persons to run or engage in or cause to be run or be engaged in any bicycle or motorcycle race on any street, alley, highway or public place within the city limits except when officially sanctioned to do so and supervised by the Chief of Police.

9.1113 License Required

No bicycle shall be operated within the City without first obtaining a license to operate the same and the payment of the annual license fee.

9.1114 License Application

Application for a bicycle license and license plate shall be made upon a form provided by the city and shall be made to the City Auditor. An annual fee of one dollar (\$1) shall be paid to the city before each license, or renewal thereof, is granted for a bicycle. All licenses are due January 1st of each year and delinquent March 1st of each year. The owner of a bicycle purchased after March 1st of any year shall apply for a license within fifteen (15) days from the date of purchase. Failure to pay license fee within the time prescribed in this section subjects the owner to a penalty of fifty cents (\$.50) or the taking up of the bicycle, which may be held until license fee and penalty are paid.

9.1115 Issuance of License

1. The City Auditor, upon receiving proper application therefore, is authorized to issue a bicycle license which shall be effective until the next succeeding first day of January, regardless of the time of issuance.
2. The City Auditor shall not issue a license for any bicycle when he knows or has reasonable grounds to believe that the applicant is not the owner of, or entitled to the possession of such bicycle.
3. The City Auditor shall keep a record of the number of each license, the date issued, the name and the number on the frame of the bicycle for which issued; and a record of all bicycle license fees collected by him.

9.1116 Renewal of License

Upon the expiration of any license, the same may be renewed upon application and payment of the same fee as upon an original application.

9.1117 Revocation of License

The Municipal Judge of the City, upon application of the Chief of Police, may revoke any license issued hereunder, after hearing thereon, notice of which hearing shall be given to the licensee at least two (2) days before such hearing; and such notice to be served in the manner provided for the service of a Summons in the Justice Court of the State of North Dakota; and such license may be revoked for any fraud or false representation in obtaining the same, for any violation of terms of this ordinance and for the violation of any ordinance of this city or the laws of the State of North Dakota.

9.1118 Transfers

It shall be the duty of any person who sells or transfers any bicycle licensed hereunder, to report the sale or transfer to the City Auditor within five (5) days after such sale or transfer, giving the name and address of the person to whom said bicycle was sold or transferred, together with the frame number, the name of the maker of said

bicycle, and the date of the transfer or sale; and the purchaser or transferee shall, within five (5) days after such transfer, procure a license to operate such bicycle.

9.1119 Manner of Parking - Impoundment – Redemption

All bicycles operated in the business area of the City shall be parked in the bicycle parking racks provided therefore and not upon any sidewalk. Bicycles operated in the residential area shall not be parked on any sidewalk. All bicycles found parked upon any sidewalk in the City shall be subject to impoundment by the Police Department and redemption of said bicycle may not be had until the owner thereof has paid a redemption for which shall be determined by the Chief of Police.

9.1120 Bicycle may be Impounded by Police

Any bicycle left abandoned upon the streets of the City and picked up by the city police shall be held by the Police Department and a five dollar (\$5) pick-up fee shall be charged. If not licensed, the owner shall purchase a current year's license in addition to the five dollar (\$5) fee before the bicycle is returned to the owner.

ARTICLE 12 - Motorcycles

9.1201 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 shall be and are hereby incorporated by reference in this ordinance.

Every person operating a motorcycle or motorized bicycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this title, 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.

9.1202 Riding on Motorcycles

The provisions of North Dakota Century Code Section 39-10.2-02 and all subsequent amendments shall be and 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 shall not carry any other person nor shall 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 shall operate a motorcycle while carrying any package, bundle or other article which prevents him from keeping both hands on the handlebars.
4. No operator shall carry any person, nor shall any person ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

9.1203 Operating Motorcycles on Roadways Laned for Traffic

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

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

9.1204 Clinging to Other Vehicles

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

No person riding upon a motorcycle shall attach himself or the motorcycle to any other vehicle on a roadway.

9.1205 Footrests

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

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

9.1206 Equipment for Motorcycle Riders

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

1. No person under the age of eighteen years shall operate or ride upon a motorcycle unless protective headgear, which complies with standards established by the motor vehicle department, 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 shall not apply to persons riding within an enclosed cab or on a golf cart.
3. No person shall 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.

9.1207 Other Applicable Law

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

ARTICLE 13 - Width, Height and Load Restrictions

9.1301 Load Restrictions upon Vehicles Using Certain Roadways

When signs are erected giving notice thereof, no person shall 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.

9.1302 Commercial Vehicles Prohibited from Using Certain Streets

When signs are erected giving notice thereof, no person shall 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.

9.1303 Size Restrictions upon Vehicles Using Certain Highways

When signs are erected giving notice thereof, no person shall 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.

9.1304 Restrictions Upon Use of Streets by Certain Vehicles

1. The City Traffic Engineer or authorized person may determine and designate those heavily traveled streets upon which shall be prohibited the use of the roadway by motor-driven cycles, bicycles, horse-drawn vehicles or other non-motorized traffic and shall erect appropriate signs giving notice thereof.
2. When signs are so erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

9.1305 Peace Officers May Weigh Vehicle to Determine Load

Every police officer, including members of the state highway patrol, having reason to believe that the weight of a vehicle and the load carried thereon is unlawful, may weigh such vehicle and load or have the same weighed either by means of portable or stationary scales, and for that purpose he may require the vehicle to be driven to the nearest scales. Such officer may require the driver of such vehicle immediately to unload such portion of the load as may be necessary to decrease the gross weight to the maximum allowed by the provisions of the chapter.

ARTICLE 14 - Traffic Signs

9.1401 Signs

All traffic control devices shall conform to the state manual and specifications.

9.1402 Authority to Install

The City Engineer or any person authorized by the 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 he may deem necessary to regulate traffic under the traffic ordinances of this city or under state law, or to guide or warn traffic.

9.1403 Specifications for

All traffic-control signs, signals, and devices shall conform to the specifications approved by the Director pursuant to NDCC 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.

9.1404 Designation of Walks, Lanes, etc.

The City Engineer or any person when authorized by the governing body:

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 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 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 15 - Equipment of Vehicles

9.1501 When Lighted Lamps are Required - Penalty

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 chapter 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 (1,000) 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 (1,000) feet ahead.

Stoplights, turn signals, and other signaling devices must be lighted as prescribed for the use of such devices.

9.1502 Headlamps on Motor Vehicle

1. Every motor vehicle must be equipped with at least two headlamps with at least one on each side of the front of the motor vehicle, which headlamps must comply with the requirements and limitations set forth in this chapter.
2. Every headlamp upon every motor vehicle must be located at a height measured from the center of the headlamp of not more than fifty-four (54) inches nor less than twenty-four (24) inches to be measured as set forth in subsection 2 of NDCC section 39-21-02.

9.1503 Tail lamps

1. Every motor vehicle, trailer, semitrailer and pole trailer, and any other vehicle which is being drawn at the end of a train of vehicles, must be equipped with at least one tail lamp mounted on the rear, which, when lighted as hereinbefore required, must emit a red light plainly visible from a distance of one thousand (1,000) feet to the rear, provided that in the case of a train of vehicles only the tail lamps on the rearmost vehicle need actually be seen from the distance specified. Every such above-mentioned vehicle, other than a truck, tractor, registered in this state and manufactured or assembled after January 1, 1964, must be equipped with at least two tail lamps mounted on the rear, on the same level and as widely spaced laterally as practicable, which, when lighted as herein required, comply with the provisions of this section.
2. Every tail lamp upon every vehicle must be located at a height of not more than seventy-two (72) inches nor less than fifteen (15) inches.
3. Either a tail lamp or a separate lamp must be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty (50) feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, must be so wired as to be lighted whenever the headlamps or auxiliary driving lamps are lighted.

9.1504 New Motor Vehicle to be Equipped with Reflectors

1. Every new motor vehicle hereafter sold and operated upon a highway other than a truck tractor must carry on the rear, either as a part of the tail lamps or separately, two or more red reflectors, meeting the requirements of this section, except that vehicles of the type mentioned in NDCC section 39-21-08 must be equipped with reflectors as required in applicable sections.
2. Every such reflector must be mounted on the vehicle at a height not less than fifteen (15) inches nor more than sixty (60) inches measured as set forth in subsection 2 of NDCC section 39-21-02, and must be of size and characteristics and so mounted as to be visible as required in NDCC section 39-21-11.

9.1505 Stop Lamps and Turn Signals Required

The provisions of the North Dakota Century Code Section 39-21-06 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

9.1506 Additional Lighting Equipment

1. Any motor vehicle may be equipped with one or more backup lamps either separately or in combination with other lamps, but the backup lamp or lamps may not be lighted when the vehicle is in a forward motion.
2. Any vehicle may be equipped with one or more side marker lamps which may be flashed in conjunction with turn signals or vehicular hazard warning signals.

9.1507 Application of Succeeding Sections

Those sections of this chapter which follow immediately, including NDCC sections 39-21-08, 39-21-09, 39-21-10, 39-21-11, and 39-21-12, relating to clearance and marker lamps reflectors, and stoplights, apply as stated in said sections to vehicles of the type therein enumerated, namely passenger buses, trucks, truck tractors, and certain trailers, semitrailer and pole trailers, respectively, when operated upon any highway, and said vehicles must

be equipped as required and all lamp equipment required must be lighted at the times mentioned in NDCC section 39-21-01, except that clearance and side marker lamps need not be lighted on any said vehicle when operated within any municipality where there is sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred (500) feet.

9.1508 Additional Equipment Required on Certain Vehicles

In addition to other equipment required in this chapter, the following vehicles must be equipped as herein stated under the conditions stated in NDCC section 39-21-07:

1. On every bus, truck, trailer, or semitrailer there must be the following:
 - a. On the rear, two reflectors, one at each side, and one stoplight.
 - b. A trailer or semitrailer which is not so loaded or of such dimensions as to obscure the stoplight on the towing vehicle, need not be equipped with a stoplight.
2. On every bus, truck, trailer, or semitrailer eighty (80) inches or more in overall width there must be the following:
 - a. On the rear, two reflectors, one at each side, two clearance lamps, one at each side, and one stoplight.
 - b. On the front, two clearance lamps, one at each side.
3. On every truck tractor there must be the following:
 - a. On the front, two clearance lamps, one at each side.
 - b. On the rear, one stoplight.
4. On every pole trailer there must be the following:
 - a. On the rear of the pole trailer or load, two reflectors, one at each side.
 - b. In addition, on pole trailers exceeding three thousand (3,000) pounds gross weight, there must be on side one side marker lamp and one clearance lamp which may be in combination, to show to the front, side, and rear.

9.1509 Color of Clearance Lamps, Side Marker Lamps, Backup Lamps, and Reflectors

1. Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle must display or reflect an amber color.
2. Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle must display or reflect a red color.
3. All lighting devices and reflectors mounted on the rear of any vehicle must display or reflect a red color, except that the light illuminating the license plate must be white and the light emitted by a backup lamp must be white or amber.
4. Any person who violates this section must be assessed a fee of ten dollars (\$10) for each offense.

9.1510 Mounting of Reflectors, Clearance Lamps, and Side Marker Lamps

1. Reflectors when required by NDCC section 39-21-08 must be mounted at a height not less than fifteen (15) inches and not higher than sixty (60) inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than fifteen (15) inches the reflector must be mounted as high as that part of the permanent structure will permit. The rear reflectors on a pole trailer may be mounted on each side of the bolster or load. Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp but must meet all the other reflector requirements of this chapter.
2. Clearance lamps must be mounted on the permanent structure of the vehicle in such a manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both.

9.1511 Visibility of Reflectors, Clearance Lamps, and Marker Lamps

1. Every reflector upon any vehicle referred to in NDCC section 39-21-08 must be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within six hundred (600) feet to one hundred (100) feet from the vehicle when directly in front of lawful lower beams of headlamps, except that the visibility for reflectors on vehicles manufactured or assembled prior to January 1, 1970, must be measured in front of lawful upper beams of headlamps. Reflectors required to be mounted on the sides of the vehicle must reflect the required color of light to the sides, and those mounted on the rear must reflect a red color to the rear.
2. Front and rear clearance lamps must be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of five hundred (500) feet from the front and rear, respectively, of the vehicle.
3. Side marker lamps must be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at distance of five hundred (500) feet from the side of the vehicle on which mounted.

9.1512 Obstructed Lights Not Required

Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this does not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination must be lighted.

9.1513 Lamp or Flag on Projecting Load

Whenever the load upon any vehicle extends to the rear four (4) feet or more beyond the bed or body of the vehicle there must be displayed at the extreme rear end of the load, at the times specified in NDCC section 39-21-01, a red light or lantern plainly visible from a distance of at least six hundred (600) feet to the sides and rear. The red light or lantern required under this section must be in addition to the red rear light required upon every vehicle. At any other time there must be displayed at the extreme rear end of a load a red flag or cloth not less than twelve (12) inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

9.1514 Lamps on Parked Vehicle

1. Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half-hour after sunset and a half-hour before sunrise and in the event there is sufficient light to reveal any

person or object within a distance of one thousand (1,000) feet upon such street or highway no lights need be displayed.

2. Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half-hour after sunset and a half-hour before sunrise and there is not sufficient light to reveal any person or object within a distance of one thousand (1,000) feet upon such highway, the vehicle must be equipped with at least one lamp displaying a white or amber light visible from a distance of one thousand (1,000) feet to the front of the vehicle. The same lamp or at least one other lamp must display a red light visible from a distance of one thousand (1,000) feet to the rear of the vehicle, and the location of the lamp or lamps must always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. Local authorities may provide by ordinance that no lights need be displayed upon any motor vehicle when parked upon a highway where the speed limit in effect does not exceed thirty (30) miles per hour in accordance with local ordinances or where there is sufficient light to reveal any person within a distance of two hundred (200) feet upon such highway.
3. Any lighted headlamps upon a parked vehicle must be depressed or dimmed.

9.1515 Lamps, Reflectors, and Reflective Materials on Farm Tractors, Farm Equipment, and Implements of Husbandry

Every farm tractor, self-propelled unit of farm equipment, or towed implement of husbandry, manufactured or assembled after January 1, 1980, must at all times, and every farm tractor, self-propelled unit of farm equipment, or towed implement of husbandry must, when operated upon the highways of this state during the times mention in NDCC section 39-21-01, be equipped as follows:

1. Tractors and self-propelled units of farm equipment must be equipped with two single-beam or multiple-beam headlamps meeting the requirements of NDCC section 39-21-20 or 39-21-22; provided, that a tractor or self-propelled unit of farm equipment which is not equipped with an electrical system must be equipped with at least one lamp displaying a white light visible when lighted from a distance of not less than one thousand (1,000) feet to the front of the vehicle. Every tractor and self-propelled unit of farm equipment must be equipped with at least one lamp displaying a red light visible when lighted from a distance of one thousand (1,000) feet to the rear of the vehicle. In addition, every tractor and every self-propelled unit of farm equipment must be equipped with two red reflectors visible from all distances from six hundred (600) feet to one hundred (100) feet to the rear when directly in front of lawful lower beams of headlamps.
2. Every towed unit of farm equipment or implement of husbandry must be equipped with at least one lamp displaying a red light visible when lighted from a distance of one thousand (1,000) feet to the rear or two red reflectors visible from all distances within six hundred (600) feet to one hundred (100) feet to the rear when directly in front of lawful lower beams of headlamps. In addition, if the extreme left projection of a towed unit of farm equipment or implement of husbandry extends beyond the extreme left projection of the towing tractor or vehicle, the unit or implement must be equipped with at least one amber lamp or reflector mounted to indicate as nearly as practicable the extreme left projection and visible from all distances within six hundred (600) feet to one hundred (100) feet to the front when illuminated by the lower beams of headlamps and at least one red lamp reflector so mounted and visible from the same distances to the rear.

The lamps and reflectors required by this section must be so positioned as to show from front and rear as nearly as practicable the extreme projection of the vehicle carrying them on the side of the roadway used in passing the vehicle. If a farm tractor or a unit of farm equipment, whether self-propelled or towed, is equipped with two or more lamps or reflectors visible from the front or two or more lamps or reflectors visible from the rear, the lamps or reflectors must be so positioned that the extreme projections both to the left and the right of the vehicle must be

indicated as nearly as is practicable. If all other requirements are met, reflective tape or paint may be used in lieu of the reflectors required in subsection 2.

9.1516 Lamps on Other Vehicles and Equipment

Every vehicle, including animal-drawn vehicles and vehicles referred to in subsection 3 of NDCC section 39-21-46 not specifically required by the provisions of this chapter to be equipped with lamps or other lighting devices, must at all times specified in NDCC section 39-21-01 be equipped with at least one lamp displaying a white light visible from a distance of not less than one thousand (1,000) feet to the front of the vehicle, and must also be equipped with two lamps displaying red light visible from a distance of not less than one thousand (1,000) feet to the rear of the vehicle, or two red reflectors visible for distances of one hundred (100) feet to six hundred (600) feet to the rear when illuminated by the lower beams of headlamps.

9.1517 Spot Lamps and Auxiliary Lamps

Any motor vehicle may be equipped with not to exceed two spot lamps and every lighted spot lamp must be so aimed and used so that no part of the high intensity portion will strike the windshield, or any windows, mirror, or occupant of another vehicle in use.

9.1518 Signal Lamps and Signal Devices

1. Any motor vehicle may be equipped and, when required under this chapter, must be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red light visible from a distance of not less than three hundred (300) feet to the rear in normal sunlight, and which shall be actuated upon application of the service (foot) brake, and which may, but need not, be incorporated with one or more other rear lamps.
2. Any motor vehicle may be equipped and when required under this chapter must be equipped with lamps showing to the front and rear for the purpose of indicating an intention to turn either to the right or left. The lamps showing to the front must be located on the same level and as widely spaced laterally as practicable and when in use display a white or amber light, or any shade of color between white and amber, visible from a distance of not less than three hundred (300) feet to the front in normal sunlight, and the lamps showing to the rear must be located at the same level and as widely spaced laterally as practicable and when in use display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than three hundred (300) feet to the rear in normal sunlight. Any motor vehicle or combination of vehicles eighty (80) inches or more in overall width, and manufactured or assembled after January 1964, must be equipped with the lamps required by this subsection mounted and spaced in the same manner but visible from a distance of not less than five hundred (500) feet to the front and rear in normal sunlight. When actuated the lamps must indicate the intended direction of turning by flashing the lights showing to the front and rear on the side toward which the turn is made. Turn signal lamps may, but need not, be incorporated in other lamps on the vehicle.
3. No stop lamp or signal lamp may project a glaring light.

9.1519 Use of Multiple-beam Road-lighting Equipment

Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in NDCC section 39-21-01, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations.

1. Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred (500) feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not

projected into the eyes of the oncoming driver. The lowermost distribution of light or composite beam, specified in subsection 2 of NDCC section 39-21-20 must be deemed to avoid glare at all times, regardless of road contour and loading.

2. Whenever the driver of a vehicle follows another vehicle within three hundred (300) feet to the rear, the driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in subsection 1 of NDCC section 39-21-20.

9.1520 Number of Driving Lamps Required or Permitted

1. At all times specified in NDCC section 39-21-01 at least two lighted lamps must be displayed, one on each side at the front of every motor vehicle, except when a vehicle is parked subject to the regulations governing lights on parked vehicles.
2. Whenever a motor vehicle equipped with headlamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than three hundred (300) candle power, not more than a total of four (4) of any such lamps on the front of a vehicle may be lighted at any one time when upon a highway.

9.1521 Special Restrictions on Lamps

1. Any lighted lamp or illuminating device upon a motor vehicle, other than headlamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps and school bus warning lamps, which projects a beam of light of an intensity greater than three hundred (300) candle power must be so directed that no part of the high-intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five (75) feet from the vehicle.
2. No person may drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red or green light visible from directly in front of the center thereof. This section does not apply to any vehicle upon which a red light visible from the front is expressly authorized or required by this chapter.
3. Flashing lights are prohibited except on an authorized emergency vehicle, school bus, snow-removal equipment or on any vehicle as a means of indicating a right or left turn, or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing.

9.1522 Brake Equipment Required

1. Every motor vehicle, other than a motorcycle or motor-driven cycle, when operated upon a highway, must be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two separate means of applying the brakes, each of which means must be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they must be so constructed that failure of any one part of the operating mechanism does not leave the motor vehicle without brakes on at least two wheels.
2. Every farm tractor, motorcycle, and motor-drive cycle, when operated upon a highway, must be equipped with at least one brake, which may be operated by hand or foot.
3. Every trailer or semitrailer when operated upon a highway at a speed in excess of twenty-five (25) miles per hour must be equipped with safety chains or brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and said brakes must be so designed and connected that in case of an accidental breakaway of the towed vehicle the brakes are automatically applied.

4. One of the means of brake operation must be parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice or loose material. The parking brakes must be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power-assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes must be so designed that when once applied they remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes.

9.1523 Horn and Warning Device

1. While being operated upon a highway, every motor vehicle must be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred (200) feet, but no horn or other warning device may emit an unreasonably loud or harsh sound or a whistle. Whenever reasonably necessary for safe operation, the driver of a motor vehicle upon a highway shall give audible warning with his horn, but may not otherwise use his horn while upon a highway.
2. No vehicle may be equipped with nor may any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section.
3. Any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.
4. Any authorized emergency vehicle may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred (500) feet and of a type approved by the Department, but the siren may not be used except when the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which events the driver of the vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of approaching vehicles.

9.1524 Muffler Required

1. Every motor vehicle must at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person may use a muffler cutout, bypass, or similar device upon a motor vehicle on a highway.
2. The engine and power mechanism of every motor vehicle must be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

9.1525 Mirror

On and after January 1, 1964, every motor vehicle, operated singly or when towing any other vehicle, must be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred (200) feet to the rear of such motor vehicle.

9.1526 Windshield - Must be Unobstructed and Equipped with Wipers - Tinted Windows

1. Every motor vehicle shall be equipped with a windshield. No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows which obstruct the driver's clear view of the highway or any intersection highway.
2. The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which shall be so constructed as to be controlled or operated by the driver of the vehicle.
3. Every windshield wiper upon a motor vehicle shall be maintained in good working order.
4. A person may not operate a motor vehicle with any object, material, or tinting displayed, affixed, or applied on the front windshield or any window unless the object, material or tinting in conjunction with the window or windshield upon which it is displayed, affixed, or applied has a light transmittance of at least seventy percent (70%). This subsection does not apply to windows behind the operator if the motor vehicle is equipped with outside mirrors on both sides that meet the requirements of NDCC section 39-21-38, nor to front side windows displaying transparent sun-screening material as authorized by competent medical authority.

9.1527 Restrictions as to Tire Equipment

1. Every solid rubber tire on a vehicle must have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.
2. No person may operate or move on any highway any motor vehicle, trailer, or semitrailer having any metal tire in contact with the roadway.
3. No tire on a vehicle moved on a highway may have on its periphery any block, stud, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it is permissible to use farm machinery with tires having protuberances which will not injure the highway, and except also that it is permissible to use tire chains of reasonable proportions. It is also permissible to use, from October fifteenth to April fifteenth, pneumatic tires which have metal studs which do not project more than one-sixteenth of an inch beyond the tread of the traction surface of the tire, except that it is permissible to use such tires on school buses at any time during the year.

9.1528 Safety Belts

1. Every passenger car manufactured or assembled after January 1, 1965, must be equipped with lap belt assemblies for use in the driver's and one other front seating position.
2. All motor vehicles manufactured after January 1, 1968, must be equipped with any lap belt or shoulder belt required at the time the vehicle was manufactured by standards of the United States department of transportation. Nothing in this subsection affects the requirement in subsection 1 for a lap belt in the driver's seating position.
3. The Department may except specified types of motor vehicles or seating positions within any motor vehicle from the requirements imposed by subsections 1 and 2 when compliance would be impractical.
4. No person may install, distribute, have for sale, offer for sale, or sell any belt for use in motor vehicles unless it meets current minimum standards and specifications of the United States Department of Transportation.

5. Every owner shall maintain belts and assemblies required by this section in proper condition and in a manner that will enable occupants to use them.

9.1529 Child Restraint Devices - Penalty - Evidence

The provisions of the North Dakota Century Code Section 39-21-41.2 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

9.1530 Vehicle to be Constructed to Prevent Sifting or Leaking Loads

No vehicle may be driven or moved on any highway unless it is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway. No person may operate on any highway any vehicle with any load unless the load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

9.1531 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.

9.1532 Modification of Motor Vehicle

The provisions of the North Dakota Century Code Section 39-21-45.1 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

9.1533 Slow Moving Vehicles Required to Display Identification Emblem - Penalty

All implements of husbandry, as defined in NDCC section 39-01-01, and machinery, including all road construction machinery, designed for operation at a speed of twenty-five (25) miles an hour or less, must display either a triangular slow-moving vehicle emblem or a rotating or flashing amber light, as authorized for class B emergency vehicles, whenever traveling along the roadway on any county, state, federal highway, or city street in the state of North Dakota. The emblem or light must be mounted so as to be visible from a distance of not less than five hundred (500) feet to the rear. The Director shall adopt standards and specifications for the design and position of mounting the slow-moving vehicle emblem and light. The standards and specifications for slow-moving vehicle emblems referred to in this section must correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers. No vehicle, other than those specified in this section, must display a slow-moving vehicle emblem, and its use on any type of stationary object is prohibited. Any person who fails or refuses to comply with the provisions of this section must be assessed a fee of twenty dollars (\$20).

ARTICLE 16 - Regulations and Registration of Snowmobiles

9.1601 Definitions

For the purposes of this chapter:

1. "Dealer means every person, partnership, corporation, or limited liability company engaged in the business of buying, selling, or exchanging snowmobiles, or who advertises, or holds himself out to

the public as engaged in the buying, selling, or exchanging of snowmobiles, or who engages in the buying of snowmobiles for resale.

2. "Operate" means to ride in or on and control the operation of a snowmobile.
3. "Operator" means every person who operates or is in actual physical control of a snowmobile.
4. "Owner" means a person, other than a lienholder, having the property in or title to a snowmobile entitled to the use or possession thereof.
5. "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.
6. "Register" means the act of assigning a registration number to a snowmobile.
7. "Registrar" means the Director of the Department of Transportation of this state as provided in NDCC section 24-02-01.3.
8. "Roadway" means that portion of the highway improved, designed, or ordinarily used for vehicular travel.
9. "Snowmobile" means a self-propelled vehicle designed for travel on snow, ice, or a natural terrain and steered by skis or runners.

9.1602 Snowmobile Registration

Except as provided for, no person may operate any snowmobile within the city limits unless it has been registered in accordance with Chapter 39-24 of the North Dakota Century Code.

9.1603 Prohibited from Operation within City Limits

Pursuant to this code and this chapter, rules and regulations for the regulation and use of snowmobiles must be adopted as follows:

1. The Registrar shall promulgate rules and regulations for the registration of snowmobiles and display of registration numbers.
2. The Director has the authority in the interest of public health, welfare, and safety to regulate, restrict, or prohibit, by rule or regulation, the operation of snowmobiles on those highways under his jurisdiction. The Director's authority to prohibit the use of snowmobiles is limited to the roadways, shoulders, inslopes, and medians within the right of way, except where such action is necessary to avoid an obstacle. Notwithstanding the racing prohibitions in NDCC section 39-08-03.1, the Director may, on a case by case basis, permit organized and bona fide snowmobile races on the ditch bottoms, backslopes, and the top of the backslopes of the highway rights of way under his jurisdiction. The planning, organization, route selection, and safety precautions of any such race are the sole responsibility of the permittee. It is expressly provided that the Director, and the Department and the employees thereof, shall incur no liability whatsoever for permitting such races.
3. The Director of the Parks and Recreation Department shall adopt rules for regulating use of snowmobiles in state parks and other state-owned land under the supervision of the Director.

4. The governing bodies of political subdivisions shall promulgate rules and regulations for regulating use of snowmobiles in recreation and other appropriate areas under their jurisdiction. The governing bodies of cities may, by ordinance, regulate, restrict and prohibit the use of snowmobiles when operated within the exclusive jurisdiction of cities.

9.1604 Rules for Operation of Snowmobiles

The provisions of the North Dakota Century Code Section 39-24-09 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

9.1605 Operation by Individuals – Minimum age.

The provisions of the North Dakota Century Code Section 39-24-09.1 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

9.1606 Penalties

The provisions of the North Dakota Century Code Section 39-24-11 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

ARTICLE 17 - Motorcycle Equipment

9.1701 Purpose

The provisions of North Dakota Century Code Section 39-27 and all subsequent amendments shall be and are hereby incorporated by reference in this article.

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.

9.1702 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 shall be incorporated on the manufacturer's statement of origin (MSO) upon transfer of vehicle ownership.

9.1703 Frame-Chassis Requirements

1. The motorcycle frame-chassis, including the suspension components and engine mountings, shall 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 wheel base shall not be less than forty (40) inches.

9.1704 Brakes

1. Every motorcycle shall have either a split service brake system or two (2) independently- actuated service brake systems in accordance with regulations promulgated by the Director. Brakes must act on the front and rear wheels.
2. Every motorcycle shall meet the requirements for brake system effectiveness, fade, and partial systems as specified in rules and regulations promulgated by the Director pursuant to NDCC Chapter 28-32.
3. All linkage, cables, pivots and bearings shall 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 shall 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 shall be in accordance with regulations promulgated by the Director. 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 shall be equipped with a parking brake of a friction type with a solely mechanical means to retain engagement.

9.1705 Brakes on Motor-Driven Cycles

The Department 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.

9.1706 Tires, Wheels and Rims

1. Motorcycle tires shall be of pneumatic design with a minimum width of two and twenty-five hundredths (2.25) 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 shall not be less than ten (10) inches and shall otherwise comply with applicable state standards, as promulgated by the Director. 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.

9.1707 Steering and Suspension Systems

1. Motorcycle steering and suspension systems shall 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 shall 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 shall 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 shall be equipped with an adjustment feature that will provide proper wheel tracking.

3. The steering head shall 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, shall 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 shall include the specific rake and trail for each motorcycle or class of motorcycles and the terms "rake" and "trail" shall be defined by the Director.

5. Handlebars shall 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 shall be located no more than fifteen (15) inches above the unoccupied seat with the handlebars located in a straight-ahead position and shall be capable of vertical adjustment. The handlebars shall provide a minimum of eighteen (18) inches between grip after final assembly.
6. Handlebars shall be equipped with handgrips consisting of a material and surface pattern to ensure firm, nonslip gripping for the driver.
7. Every motorcycle shall be equipped with a suspension system and such suspension system shall be applicable to at least the front wheel. The suspension system shall be effective in reducing road shock and designed for the purpose of maximizing vehicle stability.

9.1708 Fuel Systems

1. All fuel system components, including the tank, pump, tubing, hoses, clamps, etc., shall 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 shall 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 shall be adequately vented and provided with a fuel shutoff valve located between the fuel supply and the engine.

9.1709 Exhaust Systems - Prevention of Noise

Motorcycles shall 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 shall be leak-proof and all components shall be securely attached to the vehicle and located so as not to interfere with the operation of the motorcycle. Shielding shall 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 shall meet the noise decibel limitations as established by the Environmental Protection Agency. No person shall 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.

9.1710 Mirrors

Every motorcycle shall 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 shall consist of a minimum reflective surface of ten (10) square inches. All mirrors shall not contain sharp edges or projections capable of producing injury.

9.1711 Fenders

Each wheel of a motorcycle shall be equipped with fenders or otherwise covered by the body configuration. Fenders shall 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 shall be effective in reducing side spray.

9.1712 Seat or Saddle

A seat or saddle securely attached to the vehicle shall be provided for the use of the operator. The seat or saddle shall not be less than twenty-five (25) inches 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 shall prevent relative movement of the seat from its selected and secured position under all normal vehicle operating conditions.

9.1713 Chain Guard

Any drive chain on a motorcycle shall be equipped with a chain guard or covering device to prevent chain or chain sprocket contact with any rider.

9.1714 Vehicle Stand

All motorcycles designed with two wheels shall be equipped with a retracting vehicle stand to permit the vehicle to remain in an upright stored position without outside assistance. The stand may be of a side or center type, and shall be of substantial construction to hold the vehicle so equipped.

9.1715 Glazing

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

1. The glazing material shall comply with the standards promulgated by regulation of the Director.
2. The metal support shall be of a material which shall bend rather than fragment under impact.
3. Covering material, other than glazing, shall be beaded at the edges to prevent fraying.

9.1716 Horn

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

9.1717 Speedometer and Odometer

Every motorcycle shall be equipped with a properly operating speedometer and odometer calibrated in miles per hour and miles respectively and shall be fully illuminated when the head lamp is activated.

9.1718 Lighting Equipment

The provisions of the North Dakota Century Code Section 39-27-17 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

9.1719 Headlamps on Motorcycles

The provisions of the North Dakota Century Code Section 39-27-17.1 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

9.1720 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 shall be located on the longitudinal centerline of the motorcycle.

9.1721 Footrests

Footrests shall be provided for each designated seating position. Each footrest for a passenger shall be so designed and constructed to support a static weight of two hundred fifty (250) pounds applied at the center of the foot pedal. Footrests shall be so located to provide reasonable accessibility for the passenger's feet. Footrests shall fold rearward or upward when not in use if the footrest protrudes beyond the width of the handlebars.

9.1722 Highway Bars

If a motorcycle is so equipped, highway bars shall have a maximum width of twenty-six (26) inches; shall be located less than fifteen (15) inches from the foot controls; and shall not interfere with the operation of the foot controls.

9.1723 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, shall be approved by the Department before they will be available for use within the state.

ARTICLE 18 - All-Terrain Vehicles

9.1801 Definitions

The provisions of the North Dakota Century Code Section 39-29-01 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

9.1802 All-Terrain Vehicle Registration

Except as provided for, no person may operate an all-terrain vehicle within the city limits unless it has been registered in accordance with Chapter 39-29 of the North Dakota Century Code.

9.1803 Prohibited from Operation within City Limits

The governing bodies of political subdivisions may adopt rules to regulate use of all-terrain vehicles in areas under their jurisdiction. The governing body of a city may, by ordinance, regulate, restrict, and prohibit the use of all-terrain vehicles operated in the city limited in areas under the exclusive jurisdiction of the city.

9.1804 Operation of All-Terrain Vehicles

The provisions of the North Dakota Century Code Section 39-29-09 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

9.1805 Operations by Persons under Age Sixteen

Except as otherwise provided in this section, a person under sixteen years of age who is not in possession of a valid operator's license or permit to operate an all-terrain vehicle may not, except upon the lands of the person's parent or guardian, operate an all-terrain vehicle. A person at least twelve years of age may operate an all-terrain vehicle if the person has completed an all-terrain vehicle safety training course prescribed by the Director of the Parks and Recreation Department and has received the appropriate all-terrain vehicle safety certificate issued by the Director. The failure of an operator to exhibit an all-terrain vehicle safety certificate on demand to any official authorized to enforce this chapter is presumptive evidence that person does not hold such a certificate.

9.1806 Penalties

The provisions of the North Dakota Century Code Section 39-29-12 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

ARTICLE 19 - Angle Parking

9.1901 Angle Parking

The City Engineer or other person authorized by the governing body may mark or sign streets upon which angle parking will be permitted (other than federal aid or state highways). Upon those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

9.1902 Angle Parking – Where

Angle parking shall also be permitted on the following streets: none

9.1903 Close to Curb

No person shall 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.

9.1904 Method of Parking – Penalty

A violation of the provisions of this article in respect to the method of parking shall be punishable by a fine of not to exceed twenty-five (\$25).

ARTICLE 20 - Stopping, Standing or Parking Prohibited in Specific Places

9.2001 Parking Prohibited - All 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.

9.2002 Stopping - Parking - Certain Purposes Prohibited

No person shall 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 repairing such vehicle necessitated by an emergency.

9.2003 Stopping - Parking - Congested - Hazardous Places

The City Engineer or other person designated by the 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 shall stop, stand or park a vehicle in any such designated place.

9.2004 Stopping - Parking - In Alleys

No person shall park a vehicle within an alley, nor shall he 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 he stop in such a position as to block the driveway entrance to any abutting property.

9.2005 Parking Adjacent to Schools

1. The City Engineer or authorized person may erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in his 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 shall park a vehicle in any such designated place.

9.2006 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, trailer, camper, motorhome, boat, implement or any other such device 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, nor shall this section be construed to permit parking for a longer time than is provided in such areas.

Any vehicle, trailer, camper, motor home, boat, implement or any other such device found to be in violation of this ordinance shall be immediately removed from any public street or highway by the owner or said item shall be impounded by the city.

9.2007 Stopping - Parking - Over 12 Hours

It shall be unlawful for anyone to park or leave standing any vehicle in the city limits for a period longer than twelve (12) hours consecutively. This section shall not include any area where a shorter time is provided for parking, nor shall this section be construed to permit parking for a longer time than is provided in such areas.

9.2008 Truck Parking

1. Definitions. In this ordinance unless the context or subject matter otherwise requires:
 - a. **“Park”** when prohibited, means the standing of a semi-truck, semi-trailer, or truck whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.
 - b. **“Semi-trailer”** includes every vehicle of the trailer type so designed and used in conjunction with a semi-truck that part of its own weight and that of its load rests upon or is carried by the truck, but shall not include a house trailer or mobile trailer.
 - c. **“Semi-truck”** includes every vehicle of the type designed primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
 - d. **“Trucks”** include every vehicle of the type used to haul a product including single axle, double axle and triple axle vehicles except those exceeding 6000 pounds per axle, which shall not be allowed to operate with the City limits.
2. Restricted Parking of Commercial vehicles on City Streets.
 - a. Parking of commercial trucks and truck vans, semi-tractors, and/or trailers, farm equipment, wheel loaders, excavators, and non-recreational trailers or other commercial vehicles shall be prohibited on the city streets except as provided herein.
 - b. Such vehicles may be parked on city streets when being used in connection with development, improvement, service or demolition on an adjacent site, but only during the duration of that work.
 - c. Such vehicles may park on city streets when:
 - i. Making deliveries or picking up materials, merchandise or people, or when providing a medical service.
 - ii. Owned, leased or operated by the City.
 - iii. Owned, leased, or operated by a school district.
 - iv. Owned or operated by a contractor or supplier hired by the City and while engaged in providing services to the City, and
 - v. When and where, and for such durations, as parking is authorized by Resolution of the City Commission and noticed by City signs.
3. Restricted Parking of Recreational Vehicles on City Streets.
 - a. Campers, boats, and other recreational vehicles or trailers may only be parked upon the city streets between April 1 and October 31.

- b. Parking of these vehicles between April 1 and October 1 remains subject to all other ordinance limitations including for example the 48 hour limitation of 9.2006.
- c. During other times of the year, these vehicles must be stored on private property.

4. Violation and Penalty:

Any person, firm or corporation violating this ordinance shall be guilty of an infraction and punishable by a fine of one hundred dollars (\$100) for each violation. Each and every day that such violation continues shall constitute a separate offense.

ARTICLE 21 - Reserved Parking Areas

9.2101 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 shall establish from time to time areas for loading and unloading, bus parking, guest parking, taxi parking, emergency parking, no parking, police and fire use on such public streets in such places and in such number as he shall determine or as the governing body may specifically designate to be of greatest benefit and convenience to the public and to promote the best use of the streets for traffic to pedestrians and designate the same by appropriate signs.

ARTICLE 22 - Time Limit Parking Zones

9.2201 Time Limit Parking Zones

When signs are erected giving notice thereof, no person, firm or corporation shall park or leave standing, either attended or unattended any motor vehicle for more than five (5) consecutive minutes on street areas so posted, or for more than ten (10) consecutive minutes on street areas so posted, or more than thirty (30) consecutive minutes on street areas so posted, or more than sixty (60) consecutive minutes on street areas so posted, or for more than one hundred twenty (120) consecutive minutes on street areas so posted, when said areas have been made available for parking.

The City Engineer or authorized person shall establish from time to time in such places and in such manner time parking zones as he shall determine or as the governing body shall specifically designate to promote the greatest benefit and convenience to the public and the best use of the street areas.

ARTICLE 23 - Sections Not Adopted

The sections of Title 39 of the North Dakota Century Code not expressly adopted in ARTICLE 1 through ARTICLE 27 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, the text of the adopted code shall be made available 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 thereto as may be made therein from time to time, and such adopted portions of Title 39 filed as required in ARTICLE 24 shall at all times be made available in the office of the City Auditor of this city.

ARTICLE 26 - Severability Clause

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

ARTICLE 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 five hundred dollars (\$500). If a statutory penalty is provided above such penalty cannot be exceeded.

CHAPTER TEN

HEALTH

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CHAPTER TEN

HEALTH

ARTICLE 1 – Board of Health

The City of Halliday has relinquished its authority relating to a Board of Health to the Southwestern District Health Unit, which has its main office in Dickinson, North Dakota.

ARTICLE 2 – Local Health Officer

The City of Halliday has relinquished its authority relating to a Local Health Officer to the Southwestern District Health Unit, which has its main office in Dickinson, North Dakota.

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 watertight containers, which shall be protected against the access of flies and rodents.

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

10.0304 Burning

No garbage, refuse or rubbish shall be burned within the City or in disposal grounds maintained by the City. Natural plant materials such as grass clippings, weeds, and branches may be deposited at the City landfill for burning. A key is available from the City Auditor during normal business hours.

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 and will be contained within the "RESOLUTION ESTABLISHING CITY SERVICE CHARGES" at the end of Chapter 7.

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 and Sewer Department of the City upon monthly or quarterly bills from the Water and Sewer 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.

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 local 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 Water and Sewer Utility Superintendent with the assistance of the local health officer. The Water and Sewer Utility 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 local 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 local 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 local health officer may give instructions to a franchised contractor.

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:
 - a. dilapidation, deterioration or decay;
 - b. faulty construction;
 - c. the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
 - d. the deterioration, decay or inadequacy of its foundation; or
 - e. 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:
 - a. an attractive nuisance to children;
 - b. a harbor for vagrants, criminals or immoral persons; or as to
 - c. 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:
 - a. strength,
 - b. fire-resisting qualities or characteristics, or

- c. 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 local 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 City 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 City Building Inspector

The City 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 files complaints to the effect 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 City 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.

Appendix 10-2, “IN THE MATTER OF A “DANGEROUS BUILDING” LOCATED IN THE CITY OF HALLIDAY, NORTH DAKOTA, WITH AN ADDRESS OF:” shall be used for this notice.

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 City 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.” Appendix 10-1,”Warning” shall be used for this notice.

10.0405 Duties of the City Governing Body

The City governing body shall:

1. Upon receipt of a report of the City 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 City Building Inspector’s notice provided for herein in Section 10.0404, subsection 5. Appendix 10-3, “IN THE MATTER OF “DANGEROUS BUILDINGS’ LOCATED AT Halliday, NORTH DAKOTA UNDER ARTICLE 4, CHAPTER TEN” shall be used for this notice.
2. Hold a hearing and hear such testimony as the City 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) 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) 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) 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 City 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.

ARTICLE 5- Anhydrous Ammonia

10.0501 Definitions

For the purpose of this Ordinance the following terms shall be defined as follows:

1. The term "**vehicle**" shall include any vehicle, trailer, or semitrailer propelled by mechanical, motor or muscular power.
2. **Tank truck:** Any motor vehicle used for the transportation of anhydrous ammonia, which for such purpose is provided with a tank or tanks mounted on the frame or chassis of such vehicle.
3. **Tank trailer:** Any vehicle without its own motive power but drawn by a motor vehicle, used for the transportation of anhydrous ammonia, and which for such purpose is provided with a tank or tanks mounted thereon.
4. **Tank semitrailer:** A vehicle of the trailer type having one or more axles and two or more wheels, so designed and used in conjunction with a motor vehicle that some parts of its own weight and that of its own load rests upon or is carried by another vehicle; used for the transportation of anhydrous ammonia and for which purpose is provided with a tank or tanks mounted thereon.
5. **Anhydrous ammonia tank:** Any vehicle, tank truck, tank trailer, or tank semitrailer which can be used to store, haul, or dispense anhydrous ammonia.

10.0502 Transportation of Anhydrous Ammonia

The following approved routes shall pertain to any vehicle, tank truck, tank trailer, tank semitrailer, or anhydrous ammonia tank, which is carrying anhydrous ammonia.

1. Any vehicle, tank truck, tank trailer, tank semitrailer and anhydrous ammonia tank which has been loaded or filled with anhydrous ammonia shall be allowed to traverse or be within the city limits, only upon the following approved routes:
 - a. North Dakota State Highway No.8; and
 - b. Through 1st Street North to 3rd Avenue West; and
 - c. 1st Avenue West on to Central and 1st Street North.
2. No anhydrous ammonia tank shall be parked or permitted to stand anywhere in the municipality, provided that the standing of such vehicle made necessary by mechanical trouble, traffic conditions,

accident, or in obedience to the direction of a policeman or traffic signals shall not be considered a violation of this section.

10.0503 Regulation of Vehicles

1. Regulations concerning the tank trucks, tank trailers, anhydrous ammonia tanks, tank semitrailers; every tank truck, tank trailer and tank semi-trailer operated within the corporate limits of the city shall be in good repair, clean and free from leaks.
2. If a vehicle is required to be lighted pursuant to the applicable laws of the State of North Dakota, then every tank truck, tank trailer, and tank semitrailer operated within the corporate limits of the city shall be equipped only with electric lights, and lighting circuits shall have suitable over-current protection with fuses and automatic circuit breakers and the wiring shall have sufficient carrying capacity and mechanical strength and shall be suitably secured, insulated and protected against physical damage.

10.0504 Regulation on Sale and Storage of Anhydrous Ammonia

It shall be unlawful to store, handle or offer for sale and delivery anhydrous ammonia within the city limits.

10.0505 Police Powers Defined

This ordinance is declared to be an exercise of the police power directly affecting and designed to promote the peace, safety, public health and well-being of the people of this City.

10.0506 Saving Clause

If any portion of this Article shall be judged unconstitutional or contrary to the laws of the State of North Dakota, such portion shall not invalidate the remaining portions of this Article, and it is hereby expressly declared that remaining portions of this Article would have been adopted notwithstanding the invalid portions thereof and that such portions not declared unconstitutional or contrary to the laws of the State of North Dakota shall remain in full force and effect.

10.0507 Penalty

The maximum penalty for any person, co-partnership or corporation violating any of the provisions of this ordinance, shall upon conviction thereof be a fine of not more than five hundred dollars (\$500) or imprisonment in the county jail not exceeding thirty (30) days or both such fine and imprisonment.

10.0508 Repeal of Conflicting Ordinance

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

WARNING

This building has been found to be a dangerous building by the City 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

Halliday, North Dakota

APPENDIX 10-2

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

NOTICE AND ORDER

You are hereby notified that the undersigned, Building Inspector of the City of Halliday, North Dakota, acting pursuant to Article 4, Chapter 10 of the 2016 Revised Ordinances of the City of Halliday, 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 City 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____.

City Building Inspector

Dated this _____ day of _____, 20____.

APPENDIX 10-3

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

NOTICE OF HEARING

You are hereby notified that the Building Inspector of Halliday, North Dakota, has filed with the Halliday Board of City Commissioners 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 Halliday Board of City Commissioners at
_____ on the _____ day of
_____, 20____, at the hour of _____ o’clock ____m., to show cause as to why the building
reported to be a “dangerous building” should not be demolished in accordance with the statement of particulars set
forth in the City Building Inspector’s Notice.

Dated _____, 20_____.

THE CITY OF HALLIDAY, NORTH DAKOTA

By _____
President, Halliday Board of City Commissioners

ATTEST:

City Auditor

CHAPTER ELEVEN
ANIMALS AND FOWL

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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 five hundred dollars (\$500), thirty (30) day imprisonment, or both such fine and imprisonment.

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 City Auditor. 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 City Auditor.

"Dangerous Animal" as the term is used in this Section means:

1. Any animal having a propensity, tendency, or disposition to attack, bite, cause injury to or to otherwise endanger the safety of or menace human beings or domestic animals; or
2. Any animal which attacks, bites, or injures a human being or another domestic animal one or more times without provocation; or
3. Any unmuzzled animal which, when unprovoked, in a malicious, vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or places, or any place where such person may lawfully be, public or private; or
4. Any animal owned or harbored primarily or in part for purposes of fighting or attacking, or any animal trained for fighting or attacking; or
5. Any animal which has been deemed to be dangerous by the City Commission or municipal court pursuant to any state statute or the ordinance codified in this Section; or
6. Any animal which has been deemed dangerous or vicious by any government agency or entity.

11.0103 Permit – When Issued

The City Auditor shall have discretion as to whether or not to issue a permit pursuant to Section 11.0102. If the City Auditor 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 City Auditor 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 local health officer.

It is hereby made the duty of the local 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, cattle, horses, chickens or other poultry, goats, or rabbits 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 five hundred dollars (\$500). 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.

ARTICLE 2 – Dogs and Cats

11.0201 License Required

No dog or cat over the minimum age for inoculations 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 be shown to the person issuing the license before a license may be issued.

11.0202 Licensing Procedure and Terms

It shall be unlawful for a resident to have or keep more than two dogs and two cats except as provided for in section 11.0203 at any one residential location. No dogs described in Section 11.0211 may be licensed or kept in the city limits.

All dogs and cats shall be registered as to sex, breed, name and addressees of owner and name of animal. Licenses shall be issued by the City Auditor 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 to be securely attached around the animal's neck and kept there at all times during the license period.

The owner of any spayed female dog or cat shall present to the City Auditor a letter or certificate signed by a licensed veterinarian to the effect that such dog has been spayed or such other evidence as the license issuer may require.

11.0203 License Fee

The license fee shall be specified in the RESOLUTION ESTABLISHING CITY SERVICE CHARGES at the end of Chapter 7.

However, these fees shall apply only to the first two dogs or cats at a residence. A third dog may be kept at a residence only by payment of an annual license fee of One Hundred Dollars (\$1 00); a fourth dog may be kept at the same residence only by payment of an annual license fee of Three Hundred Dollars (\$300) for that fourth dog; and the annual license fee to keep a fifth dog at any one residence shall be Five Hundred Dollars (\$500) Dollars for the fifth dog."

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 shall be added to the license or renewal fee. This penalty is specified in the RESOLUTION ESTABLISHING CITY SERVICE CHARGES at the end of Chapter 7.

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). Other fees and charges will accrue and must be paid before the dog or cat is released to any person. Fees will be determined on a case-by-case basis 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 City Auditor 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 unlicensed 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 Prohibited Dogs

1. Definitions:

- a. "Owner" is defined to include someone who keeps or harbors a prohibited dog.
- b. "Pit Bull Dog" is defined to mean:
 - i. The bull terrier breed of dog;
 - ii. Staffordshire bull terrier breed of dog;
 - iii. The American pit bull terrier breed of dog;
 - iv. The American Staffordshire terrier breed of dog;
 - v. A dog of mixed breed or of other breeds than above listed which breed or mixed breed is known as a pit bull, pit bull dog or pit bull terrier;
 - vi. Any dog which has the appearance and characteristics of being predominantly of the breed of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, any other breed commonly known as pit bull, pit bulldog or pit bull terrier, or a combination of any of these breeds.
- c. "Doberman Pinscher" is defined to mean:
 - i. The Doberman Pinscher breed of dog;
 - ii. A dog of mixed breed or of other breeds than above listed which breed or mixed breed is known as a Doberman Pinscher;
 - iii. Any dog which has the appearance and characteristics of being predominantly of the breed of Doberman Pinscher.
- d. "Rottweiler" is defined to mean:
 - i. The Rottweiler breed of dog;
 - ii. A dog of mixed breed or of other breeds than above listed which breed or mixed breed is known as a Rottweiler;
 - iii. Any dog which has the appearance and characteristics of being predominantly of the breed of Rottweiler.

- e. "Prohibited Dog" is defined as any pit bull dog, Doberman Pinscher dog or Rottweiler dog as defined in 1b, 1c and 1d above.
- 2. It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City any pit bull dog, Doberman Pinscher dog or Rottweiler dog; provided that a prohibited dog registered with the City on or before the first of February, 2004, may be kept within the City subject to the conditions and limitations set forth in subsection (3).
 - 3. The provisions of subsection (2) of this section are not applicable to an owner of a prohibited dog registered with the City on or before the first day of February 2004, provided, however, the owner owned the dog on or before December 1, 2003. The registration and the keeping of the dog shall be subject to the following conditions and limitations.
 - a. Leash and muzzle. No person shall permit a prohibited dog to go outside its kennel or pen unless the dog is securely leashed with a leash no longer than four feet in length. No person shall permit a prohibited dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. The dog may not be leashed to an inanimate object such as a tree, post, building, etc. In addition any prohibited dog on a leash outside the animals kennel must be muzzled by a muzzling device sufficient to prevent the dog from biting persons or other animals.
 - b. Confinement. The prohibited dog shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. The pen, kennel or structure must have secure sides and a secure top attached to the sides. The structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet. A structure erected to house a prohibited dog must comply with all zoning and building regulations of the City. The structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
 - c. Confinement indoors. No prohibited dog may kept on a porch, patio or in any part of a house or structure that would allow the dog to exit the building on its own volition. In addition, it may not be kept in the house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.
 - d. Signs. The owner of the prohibited dog must display in a prominent place on his premises a sign easily readable by the public using the words "Beware of Dog". In addition, a similar sign must be posted on the dog's kennel or pen.
 - e. Insurance. The owner of a prohibited dog must provide proof to the City animal warden of public liability insurance in a single incident amount of three hundred thousand dollars for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of the dog. The insurance policy shall provide that no cancellation of the policy will be made unless ten days written notice is first given to the animal warden.
 - f. Identification photos. The owner of a prohibited dog must provide to the City animal warden two color photographs of the animal clearly showing the color and approximate size of the animal.
 - g. Reporting requirements. The owner, keeper or harbinger of a prohibited dog must within ten days of the incident, report the following information in writing to the City animal warden as required hereinafter:
 - i. The birth of offspring to the prohibited dog;

- ii. The new address of a prohibited dog owner should the owner move within the corporate City limits.
 - iii. The removal from the City or death of a registered prohibited dog.
4. No person shall sell, barter, or in any other way transfer a prohibited dog registered with the City to any person within the City unless the recipient resides permanently in the same household as the registered owner of the dog; provided that the registered owner of the prohibited dog may sell or otherwise transfer a registered dog or the offspring of the dog to persons who do not reside within the City.
 5. All of the offspring born of a prohibited dog registered with the City must be removed from the City within six weeks of birth.
 6. There shall be an irrebuttable presumption that any dog registered with the City as a prohibited dog or any of those breeds prohibited by subsection (A) of this section is in fact a dog subject to the requirements of this section.
 7. Failure to Comply. It shall be unlawful for the owner of a prohibited dog registered with the City to fail to comply with the requirements and conditions set forth in this section. Any dog found to be subject of a violation of this section shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the City.

11.0212 Penalty

Any person violating any provision of this article shall be guilty of an infraction and be fined not to exceed five hundred dollars (\$500).

CHAPTER TWELVE

PUBLIC NUISANCES

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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 systems 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 local 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 local 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 Definitions.

The following words or terms when used herein shall be deemed to have the meaning set forth below:

1. The term "**junk**" shall include, without limitation, parts of machinery or motor vehicles, unused furniture, stoves, refrigerator, or other appliances, remnants of wood, metal, or any other castoff material of any kind, whether or not the same could be put to any reasonable use.
2. The term "**junk automobiles**" shall include, without limitation, any motor vehicle which is not licensed for use upon the highways of the State of North Dakota for a period in excess of sixty (60) days, and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of sixty (60) days; provided that there is excepted from this definition unlicensed, but operative, vehicles which are kept as the stock in trade of a regularly licensed and established new and used automobile dealer.
3. The term "**abandoned vehicle**" shall include, without limitation, any vehicle which has remained on private property for a period of forty-eight (48) continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of forty-eight (48) continuous hours or more after the consent of the owner or occupant has been revoked.
4. The term "**blighted structure**" shall include, without limitation, any dwelling, garage, or outbuilding, or any factory, shop, store, warehouse, or any other structure or part of a structure which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended.
5. The term "**building materials**" shall include, without limitation, lumber, bricks, concrete or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, or cement, nails, screws, or any other materials used in constructing any structure.
6. The term "**person**" shall include all natural persons, firms, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this ordinance,

whether as owner, occupant lessee, agent, servant or employee shall, except as herein otherwise provided, be equally liable as principals.

7. The terms "**trash**" and "**rubbish**" shall include any and all forms of debris not herein otherwise classified.
8. The term "**personal property**" shall include all property other than real property.
9. The term "**abandoned personal property**" shall include all personal property left upon the streets, alleys, or other public ways in the City which shall be deemed to be unclaimed or abandoned within the meaning of this Article when the same is permitted to remain in any one place upon said streets, alleys, or other public ways for a period of ten (10) days or more.

12.0402 Abandonment of Vehicles.

The abandonment of any vehicle within the City or the leaving of any vehicle within the City for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned is hereby declared to be a nuisance and shall be abated in the manner prescribed in this Article.

12.0403 Leaving of Junk Automobiles, Etc. on Public Streets.

The leaving of any junk, junk automobiles, trash, rubbish, abandoned vehicles, or building materials on any street, highway, or public area within the City is hereby declared to be a nuisance and shall be abated in the manner prescribed in this Article.

12.0404 Storage or Accumulation of Junk, Junk Automobiles, Etc.

The storage of or accumulation of trash, rubbish, junk, junk automobiles or abandoned vehicles on any private property in the City of Halliday except within a completely enclosed building or upon the business premises of junk dealer or junk buyer, having a place of business within an area zoned therefor is hereby declared to be a nuisance and shall be abated in the manner prescribed in this Article.

12.0405 The Dismantling of Automobiles except on Business Premises.

It is hereby declared a nuisance for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, whether or not the same be a junk automobile, abandoned vehicle, or otherwise, or any appliance or machinery, except in a completely enclosed building, or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or junk gatherer. Such nuisance shall be abated in the manner prescribed in this Article.

12.0406 Blighted Structures.

It is hereby declared a nuisance for any person to keep or maintain any blighted or vacant structure, dwelling, garage, outbuilding, factory, shop, store, or warehouse unless the same is kept securely locked, the windows kept glazed or neatly boarded up, and otherwise protected to prevent entrance thereto by unauthorized persons or unless such structure is in the course of construction in accordance with a valid building permit issued by the City of Halliday, and unless such construction is completed within a reasonable time. Such nuisance shall be abated in the manner prescribed in this Article.

12.0407 The Storage of Building Materials except on Business Premises.

It is hereby declared a nuisance for any person to store or permit the storage or accumulation of building materials on any private property, except when such materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the City of Halliday, and unless such construction is completed within a reasonable time. Such nuisance shall be abated in the manner prescribed in this Article.

12.0408 Declaration of Nuisance.

Any trash, rubbish, junk, junk automobile, abandoned vehicle, building material or blighted structure located within the City, the use, condition or status of which is in violation of any provision of this Article or law of the State, or which constitutes an obstruction, hazard, or detriment to public traffic, snow removal, operations, public safety, or public health or morals, or which may be damaged, disabled, or otherwise involved in an accident or in the commission of any violations of any provision of this Article or any law of the state; or any vehicle or any other article of personal property abandoned or unclaimed within the City is hereby declared to be a nuisance and shall be abated in the manner provided in this article. It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials and the remains of blighted structures upon any private property within the City tends to result in blighted and deteriorated neighborhoods, the increase of criminal activity, the spread of vermin and disease and is contrary to the public peace, health, safety and general welfare of the community.

12.0409 Abatement Required by Owners.

The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of the City upon which such storage is made, and also the owner(s) and/or lessee(s) 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.

12.0410 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) for each infraction and a separate infraction shall be deemed to be committed on each day during or on which the nuisance is permitted to exist.

12.0411 Removal and Impounding of Property Located on Public Property.

The Police Department of the City may remove or cause to be removed to the City Hall, or any other place within the City, selected for the purpose, any junk automobiles, abandoned automobiles, or parts of either, as well as any personal property described in 12.0401 above, and which may be located on any street, alley or other public property, and the same may be impounded and retained 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 possession of said property. If the property is unclaimed it may be disposed of in accordance with the provisions of this Article.

12.0412 Removal and Impounding of Property Located on Private Property.

The Police Department may remove or cause to be removed any junk automobile or abandoned vehicle, or parts of either, from any unenclosed private property as well as any personal property described in 12.0401 above, after having notified, in writing, the owner or occupant of such property of its intention to do so at least ten (10) days prior to such removal. Such notice shall be served personally upon the owner or occupant of the property, if occupied, or may be posted in a conspicuous place upon vacant or unoccupied property. Such junk automobiles or abandoned vehicles, or personal property described in 12.0401, shall be removed to the City Hall, or any other place within the City selected for storage purposes and retained until the expense of such 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. Such removal by the Police Department shall not excuse or relieve any person of the obligation imposed by this Article to keep his property free from storage or accumulation of junk automobiles or abandoned vehicles, or parts of junk automobiles or abandoned vehicles, nor from the penalties for violation thereof.

12.0413 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 six (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 Police shall give the purchaser at the sale a certificate of purchase of such property.

12.0414 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. If the proceeds arising from the sale are not sufficient to fully reimburse the City for its expenses incurred as a result of the abatement, the resulting deficiency, if not paid by the owner prior thereto, shall be charged and assessed against the property of the owner. 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 assessments under the state law.

12.0415 Prohibiting Abandonment in Places Accessible to All People.

It shall be unlawful for any person, firm, or corporation to leave or permit to remain outside of any dwelling, building, or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his or its control, in a place accessible to all people. Any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snaplock or other locking device which may not be released from the inside, must first remove said door or lid, snaplock, or other locking from said icebox, refrigerator or container. Any person violating this section shall be guilty of a Class B Misdemeanor and subject to a fine of not more than one thousand dollars (\$1,000) and incarceration of not more than thirty (30) days, or both such fine and incarceration.

ARTICLE 5 – Noxious Weeds

12.0501 Definition

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

12.0502 Weeds Prohibited

No owner or the agent of such owner of any lot, place or area within the City, 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.

12.0503 Notice to Destroy

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

to said owner or agent of said owner at their last known address and shall give such owner or agent a minimum of five days to cut or destroy the noxious weeds.

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 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 local health officer or person designated by the City is hereby authorized and empowered to pay for the cutting, destroying, and/or removal of such noxious weeds or 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 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 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.

ARTICLE 6 – General Penalty Provision

12.0601 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) for each violation, and a separate violation may be deemed committed on each day the violation is permitted to exist.

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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 may be by hand, voice, emergency light or siren 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.

Any person who violates or fails to comply with any provision of this ordinance shall be subject to a fine of not less than one hundred dollars (\$100) or more than five hundred dollars (\$500), or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

13.0104 Interference with Officers

1. 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.
2. A person is guilty of an offense if, with intent to prevent a public servant from effecting an arrest of himself or another for a violation of the ordinances of the City of South Heart, a misdemeanor, or

infraction; or from discharging any other official duty, he creates a substantial risk of bodily harm to the public servant or to anyone except himself, or employs means justifying or requiring substantial force to overcome resistance to effecting the arrest of the discharge of the duty.

3. It is a defense to a prosecution under this section that the public servant was not acting lawfully, but it is no defense that the defendant mistakenly believed that the public servant was not acting lawfully. A public servant executing a warrant or other process in good faith and under color of law shall be deemed to be acting lawfully.
4. Any person who is found guilty of having committed the offense described in this section shall be subject to a fine of not more than five hundred dollars (\$500) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

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.

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.

13.0203 Harassment

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

1. Makes a telephone call anonymously or in offensively coarse language;
2. Makes repeated telephone calls, whether or not a conversation ensues, with no purpose of legitimate communication; or
3. Communicates a falsehood by telephone and causes mental anguish.

ARTICLE 3 – Offenses Against Property

Division 1 - Property Destruction and Criminal Intrusion

13.0301 Criminal Mischief – Penalty

A person is guilty of an offense if that person:

1. Willfully tampers with tangible property of another so as to endanger person or property; or
2. Willfully damages tangible property of another.

Conduct is punishable as criminal mischief under this ordinance when pecuniary loss, if intentionally caused, is not in excess of one hundred dollars (\$100); if recklessly caused, is not in excess of two thousand dollars (\$2,000); and if the damages to tangible property of another are not by means of an explosive or a destructive device.

3. The penalty for the offense of criminal mischief may not exceed a fine of one thousand dollars (\$1,000), imprisonment for thirty (30) days, or both such fine and imprisonment.

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, and supply of water, gas, power or other public service by:

1. Tampering with or damaging the tangible property of another;
2. Incapacitating an operator of such service; or
3. Negligently damaging the tangible property of another by fire, explosive or other dangerous means. (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.

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.

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 13.0306 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.

13.0306 Theft of Property

A person is guilty of theft if that person:

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

2. Knowingly obtains the property of another by deception or by threat with intent to deprive the owner thereof, or intentionally deprives another of his property by deception or by threat; or
3. Knowingly receives, retains or disposes of property of another which has been stolen, with intent to deprive the owner thereof.

13.0307 Theft of Services

A person is guilty of theft if:

1. 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
2. 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.

13.0308 Theft of Property Lost, Mislaid or Delivered by Mistake

A person is guilty of theft if the person:

1. Retains or disposes of property of another when that person knows it has been lost or mislaid; or
2. 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.

13.0309 Thefts Punishable Under City Ordinances

Theft under 13.0306 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) and if:

1. The theft was not committed by threat;
2. The theft was not committed by deception by one who stood in a confidential or fiduciary relationship to the victim of the theft;
3. The defendant was not a public servant or an officer or employee of a financial institution who committed the theft in the course of official duties;
4. The property stolen is not a firearm, ammunition, explosive or destructive device, or an automobile, aircraft or other motor-propelled vehicle;
5. The property does not consist of any government file, record, document or other government paper stolen from any government office or from any public servant;

6. The defendant is not in the business of buying or selling stolen property and he does not receive, retain or dispose of the property in the course of that business;
7. The property stolen does not consist of any implement, paper or other thing uniquely associated with the preparation of any money, stamp, bond or other document, instrument or obligation of the State of North Dakota;
8. The property stolen does not consist of livestock taken from the premises of the owner;
9. The property stolen does not consist of a key or other implement uniquely suited to provide access to property the theft of which would be a felony or was not stolen to gain such access.
10. 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.

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.
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), imprisonment of thirty (30) days, or both such fine and imprisonment.

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

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.

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.

Division 2 - Disorderly Conduct

13.0403 Disorderly Conduct - Penalty

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.
2. Any person who violates or fails to comply with any of this section shall be subject to a fine of not more than \$500.00 or imprisonment for not more than 30 days, or by both such fine and imprisonment.

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.

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 devise, 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.

13.0407 Unlawful Cohabitation - Repealed, 2007.

Division 5 - Sunday Business or Labor

13.0408 Business or Labor on Sunday

The provisions of the North Dakota Century Code Chapter 12.1-30 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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.

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.

13.0411 Misrepresentation of Age – Obligations of Licensees

Any person who misrepresents or misstates that person's age or the age of any other person or who misrepresent 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.

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.

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.

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.

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 depictions of nude or partially denuded human figures posed or presented in a manner to exploit sex, lust or perversion for commercial gain.
2. As used in this section:
 - a. “Nude or partially denuded human figures” means less than completely and opaquely covered human genitals, pubic regions, female breasts or a female breast, if the breast or breasts are exposed below a point immediately above the top of the areola, or human buttocks; and includes human male genitals in a 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.

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 juvenile s 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 p.m.
 - 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 a.m. 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 a.m. 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).

Division 10 - Unauthorized Dumping in the City-Maintained Compost Collection Yard

13.0417 Unauthorized Dumping – Penalty

The City maintains a compost collection yard for the collection of grass clippings, leaves and tree branches, lumber and wood products. It shall be illegal to dump or dispose of any other substance or material in the compost collection yard. It shall also be illegal to dispose of any items in the landfill area when the collection yard is closed.

Penalty: Every person convicted of a violation of this provision shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars (\$500).

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), or both, may be imposed.
2. Infraction, for which a maximum fine of five hundred dollars (\$500) 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.

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.

13.0503 Procedure for Trial of Infraction

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 or 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.

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.

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.

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 9.0606 of these ordinances.

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.

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 defendants for the 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.

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.

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.

ARTICLE 6 – Penalties

13.0601 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) or by imprisonment not to exceed thirty (30) days, or both.

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	Transfer - Approval Required
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14.0107	Acceptance Required
14.0108	Franchises Set Forth

CHAPTER FOURTEEN

FRANCHISE

ARTICLE 1 - Grant of Franchises

14.0101 Power to Grant

The City governing body may grant to any person, firm, partnership, association, corporation, company or organization of any kind 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.

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, 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) for any one person, property damage, personal injury, or death, and five hundred thousand dollars (\$500,000) 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.

14.0105 Transfer - Approval Required

A franchisee shall not sell or transfer its franchise to another without having first obtained the approval of the City. No purported sale or transfer shall be effective until the vendee, assignee or lessee has filed in the office of the City Auditor an instrument, duly executed, reciting the fact of such sale, assignment or lease accepting the terms of the franchise and agreeing to comply with all of the provisions of this article.

14.0106 Franchise Not Exclusive

Any franchise granted by the City shall not be exclusive and the City shall reserve the right to grant a similar franchise at any time during the franchise to any person, firm, partnership, corporation or organization.

14.0107 Acceptance Required

Any grantee of a franchise shall file a written acceptance with the City Auditor, which acceptance shall continue for the term of the franchise granted.

14.0108 Franchises Set Forth

Existing franchises granted by the City shall be set forth in an appendix to this chapter.

CHAPTER FIFTEEN

BUILDING CODE

ARTICLE 1 – General Building Code

15.0101	Adoption of Code
15.0102	Amendments, Deletions, Additions to Code
15.0103	Clarification of Code
15.0104	Enforcement
15.0105	Building Permits Required – Not Required – Fees
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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, a copy of which is on file with the City Auditor. That code is hereby adopted and made a part of this chapter by reference with the exception of the following sections affecting local conditions in the City.

15.0102 Amendments, Deletions, Additions to Code

Sec. _____ shall be amended to read as follows:

Sec. _____ shall be deleted.

Sec. _____ shall be added to said code to read as follows:

15.0103 Clarification of Code

For the purpose of clarifying the Building Code adopted above.

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

15.0104 Enforcement

The City Building Inspector shall administer and enforce this zoning ordinance. Appeal from the decision of the Building Inspector may be made to the City Council.

15.0105 Building Permits Required – Not Required - Fees

1. No building or other structure shall be erected, moved, added to, or structurally altered wherein the labor and materials total one thousand dollars (\$1,000) or more without a permit therefore, issued by the City Building Inspector. No building permit shall be issued by the City Building Inspector except in conformity with the provisions of this ordinance. A building permit is required for, regardless of whether the labor and materials total one thousand dollars (\$1 ,000) or more, new fences, alteration of building foundations or load bearing walls and all concrete work.
2. A building permit is not required for repair of existing structures, or replacement of existing structures listed below provided they meet all the provisions of this Article. In all cases, the Building Inspector shall make the determination if a building permit is not required.
 - a. Sidewalks
 - b. Fences

- c. Decks
 - d. Driveways
3. The fee for the building permit as required under this Article shall be as follows:
- a. For projects wherein labor and materials totals less than one thousand dollars (\$1,000), the cost of the permit is ten dollars (\$10).
 - b. For any project wherein labor and materials total one thousand dollars (\$1,000) or more, the cost of the permit is twenty-five dollars (\$25) plus two dollars (\$2) for every additional one thousand dollars (\$1,000). However, no more than two thousand twenty-three dollars (\$2,023) shall be charged for a permit under this section.

15.0106 Extra-Territorial Zoning

In the area of the City of Halliday's extra-territorial zoning jurisdiction, a building permit shall be required except as otherwise stated in this chapter.

15.0107 Plats

Each application for a construction permit shall be accompanied by a plat in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected and such other information as may be necessary to provide for the enforcement of this regulation. A record of applications and plats shall be kept in the office of the Building Inspector.

15.0108 Violation and Penalty

- 1. The owner or agent of a building or premise in or upon which a violation of any provision of this ordinance has been committed or shall exist; or the lessee or tenant of an entire building or entire premise in or upon which a violation has been committed or shall exist; or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premise in or upon which a violation has been committed or shall exist, shall be punished by a fine not to exceed five hundred dollars (\$500). Each and every day that such violation continues shall constitute a separate offense.
- 2. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used, in violation of this regulation, the appropriate authorities of said area, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation or to prevent the occupancy of said building, structure or land.

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, a copy of which is on file in the office of the City Auditor of the City, and the same is hereby adopted as fully as if it were set out at length herein with the following exceptions:_____

CHAPTER SEVENTEEN

PERSONNEL POLICIES

ARTICLE 1 – Personnel Policies and Procedures

- 17.0101 Adoption of Policies
- 17.0102 Amendments to Policies

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.

17.0102 Amendments to Policies

Sec. _____ shall be amended to read as follows:

Sec. _____ shall be deleted.

Sec. _____ shall be added to said policies to read as follows:

ANNEXATION ORDINANCE

AN ORDINANCE ANNEXING TO THE CITY OF HALLIDAY, NORTH DAKOTA, THE FOLLOWING DESCRIBED REAL PROPERTY, TO-WIT:

A parcel of land situate in the NE 1/4, Section 25, Township 145 North, Range 92 West of the 5th Principal Meridian, Dunn County, North Dakota, being described as follows:

Commencing at the northwest corner of Selle's Second Addition to the City of Halliday, also being located at the center line of First Avenue West and the northerly right-of-way of Fifth Street;

thence N89°09'E a distance of 524.10 feet along said northerly right-of-way to the northeast corner of said Selle's Second Addition and the point of beginning;

thence N89°09'E a distance of 235.00 feet;

thence S00°51'E a distance of 840.00 feet;

thence S89°09'W a distance of 235.00 feet to the southeast corner of said Selle's Second Addition;

thence N00°51'W a distance of 840.00 feet along the east line of said Selle's Second Addition and the point of beginning.

Said parcel contains 4.53 acres more or less.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HALLIDAY, DUNN COUNTY, NORTH DAKOTA:

WHEREAS, a Petition signed by more than three-fourths (3/4) of the qualified electors and by the owners of more than three-fourths (3/4) of the assessed value of the property described above, which said property is contiguous to the incorporated limits of the City of Halliday, and not embraced therein, has been presented to the City Commission for consideration; and

WHEREAS, in accordance with Section 40-51.2-05 of the North Dakota Century Code, as amended, a Notice of Hearing of said Petition was published in the Dunn County Herald, the official newspaper of the City of Halliday, Dunn County, North Dakota, on the 29th day of June, 2012, which said Notice notified the owners of any and all lots, tracts, parcels of land described above, and the public that said Petition would be heard on the 2nd day of July, 2012, at 7:00 p.m. MDT in the City Hall of the City of Halliday, Dunn County, North Dakota; and

above, and the public that said Petition would be heard on the 6th day of July, 2012, at 7:00 p.m.

MDT in the City Hall of the City of Halliday, Dunn County, North Dakota; and

WHEREAS, pursuant to said Notice of Hearing, a hearing was had and no one appeared to protest said Petition for Annexation.

THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COMMISSION OF THE CITY OF HALLIDAY, DUNN COUNTY, NORTH DAKOTA, AS FOLLOWS:

A. That the following described parcel of land:

A parcel of land situate in the NE 1/4, Section 25, Township 145 North, Range 92 West of the 5th Principal Meridian, Dunn County, North Dakota, being described as follows:

Commencing at the northwest corner of Selle's Second Addition to the City of Halliday, also being located at the center line of First Avenue West and the northerly right-of way of Fifth Street;

thence N89°09'E a distance of 524.10 feet along said northerly right-of-way to the northeast corner of said Selle's Second Addition and the point of beginning;

thence N89°09'E a distance of 235.00 feet;

thence S00°51'E a distance of 840.00 feet;

thence S89°09'W a distance of 235.00 feet to the southeast corner of said Selle's Second Addition;

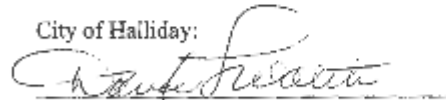
thence N00°51'W a distance of 840.00 feet along the east line of said Selle's Second Addition and the point of beginning. Said parcel contains 4.53 acres more or less.

Is hereby annexed to the City of Halliday, North Dakota.

B. That this Ordinance become effective immediately upon its final passage and recording.

Adopted this 2 day of ^{August} July, 2012.

City of Halliday:


David Walth, President
Board of City Commissioners

ATTEST:


Diane Allmendinger
Halliday City Auditor

First Reading: July 6, 2012
Second Reading: July 20, 2012
Final Passage: July 20, 2012

GI/Holiday Areas Ordinance

**AGREEMENT
TERMINATING COURT SERVICES CONTRACT
City of Halliday, Dunn County, North Dakota**

This Agreement is made this _____ day of _____, 2011, by and between The State of North Dakota (STATE), Dunn County (COUNTY), and the City of Halliday (CITY).

RECITALS

1.

The parties entered into a Court Services Contract on April 26, 2002 for court services after June 1, 2002.

2.

City now desires to provide its own municipal court services after January 1, 2012.

3.

City has adopted the necessary ordinances and is prepared to meet the minimum standards for municipal courts provided by Administrative Rule 30.

4.

The County and State have no objections to City resuming the administration of its own municipal court, and enforcement of its own ordinances.

In consideration of the mutual agreements contained herein, the parties agree as follows:

TERMS AND CONDITIONS

5.

The Contract referred to in paragraph 1 above is hereby terminated, for all purposes except as provided below.

6.

City will remain liable for, and shall promptly pay any expenses incurred under the terms of the Contract prior its termination.

7.

Any fines and costs collected by County or State after the end of the Contract, but for services provided before its termination, shall be divided between County and State as provided in the Contract.

Dated this _____ day of _____, 2011.

State of North Dakota

By: *[Signature]* 12/22/11 State Court Administrator

**ORDINANCE 2013-01
HALLIDAY, NORTH DAKOTA
ZONING ORDINANCE**

To promote the health, safety, and welfare of the people of the City of Halliday; to promote the sound and desirable use of land; and to guide City development with efficient provision of public improvements, BE IT ORDAINED, by the City Commission of the City of Halliday, North Dakota, that a new Chapter 18 entitled "The Land Development Code, City of Halliday, North Dakota" be adopted in the form attached.

First Reading:	<u>July 26, 2013</u>	Roll Call:	<u> 3 </u> aye <u> 0 </u> nay <u> 2 </u> absent
Second Reading:	<u>August 12, 2013</u>	Roll Call:	<u> 5 </u> aye <u> 0 </u> nay <u> 0 </u> absent
Publication Date:	_____		
Effective Date:	_____		

0214City of Halliday-ZoningOrdAdoption

CERTIFICATE

[illegible]

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

It is further certified that the foregoing is a true and accurate copy of the 2018 Revised Ordinances of Halliday, North Dakota, duly enacted by the governing body of the City of Halliday, the first reading being had at the meeting on May 14, 2018, and the second reading and final passage had at the meeting on June 11, 2018, and passed on a roll call vote as shown in the records kept of said meeting.

Dated this _____ day of _____, _____.

City Auditor
City of Halliday, North Dakota