



City of Larimore Ordinances

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CHAPTER ONE

GOVERNMENT ORGANIZATION

MAYOR – COUNCIL CITIES

ARTICLE 1 - Jurisdiction

1.0101 Over Persons and Property

The jurisdiction of the City of Larimore, 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 depicted in attachment #1, as being within said City; all lots and blocks shall also include all streets, alleys and public ways included within the area and adjacent thereto which are defined as within the confines of the City limits. The City Council shall have jurisdiction within the corporate City limits and over any common or public grounds belonging to the City, and in and over all places within one-half mile of the municipal limits for the purpose of enforcing health ordinances and regulations, and police regulations and ordinances adopted to promote the peace, order, safety and general welfare of the municipality. (Source: North Dakota Century Code § 40-06-01)

1.0103 Division of City into Wards

There shall be three Wards within the City to be known and designated as:

First Ward—All of Larimore East of Towner Avenue,
Second Ward – All of Larimore West of Towner Avenue- South of 4th Street,
Third Ward- All of Larimore West of Towner Avenue- North of 4th Street,

and each of said wards shall consist of all that part of the City which lies within the boundaries hereinafter set forth for each of said wards and the polling place in each ward shall be located at the site hereinafter set forth, namely: Larimore City Hall in separate places, or as the City Council may direct.

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 N.D.C.C. § 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.



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ARTICLE 2 - Governing Body - City Council

1.0201 Regular Meetings

The City Council shall meet regularly at the City Hall on the first Monday of each month at the hour of 7:00 p.m. unless some other time and place shall be specifically fixed by the council. The council shall meet in addition thereto, as often as required by Section 40-08-10 of the North Dakota Century Code.

1.0202 Special Meetings

Special meetings may be called at any time by the mayor or any two (2) members of the governing body to consider matters mentioned in the call of such meetings. Notice of any special meeting shall be given to each member of the governing body at least three hours before the time of the meeting. (Source: North Dakota Century Code § 40-08-10)

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

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

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. (Source: North Dakota Century Code § 40-06-05)



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ARTICLE 3 - Elective Officers

1.0301 City Council - Who Constitutes

The governing body of the City shall be the City Council which shall be composed of the mayor and council members. The mayor and six council members shall be elected as provided by law. (Source: North Dakota Century Code §§ 40-08-01,03)

1.0302 Term of Office of Council Members

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

1.0303 Mayor - Qualifications - Term

The chief executive officer of the City is the mayor. The mayor shall be a qualified elector within the City and shall hold office for four years and until a successor is elected and qualified. (Source: North Dakota Century Code § 40-08-14)

1.0304 When President and Vice President of a Council are Elected

The provisions of Section 40-08-11 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. At the organization meeting in each even numbered year, the members of the City Council shall proceed to elect from their number a president and vice president who shall hold their respective offices until their successors are elected at the organization meeting following the next biennial election.

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

1. If a vacancy occurs in the office of council member by death, resignation or otherwise, City Council may call a special City Election to fill such vacancy for the unexpired term or may, after fifteen days of the date of such vacancy appoint a person to fill such vacancy until the next City Election, at which election the unexpired term shall be filled. Upon petition of five percent of the electors, as determined by the total number of votes cast in the last general election, the council shall call a special election to fill a vacancy occurring more than six months before the next City Election, provided such petition has been submitted with in fifteen (15) days and before 4:00 p.m. of the fifteenth (15th) day of the date of such vacancy or of the vacancy being filled by appointment. If the petition is mailed, it shall be in possession of the council or its representative before 4:00 p.m. on the fifteenth (15th) day after the vacancy occurs or after the vacancy was filled by appointment. (Source: North Dakota Century Code § 40-08-08)

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



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provided such petition is submitted within fifteen days of the date of such vacancy. During the interim between date when a vacancy occurs in the office of the mayor and election and qualification of a successor, the president of the City Council shall be acting mayor. (Source: North Dakota Century Code § 40-08-16)

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

During the absence of the mayor from the City or during his temporary disability, the president of the City Council shall be the acting mayor and shall possess all of the powers of the mayor. In the absence or disability of the mayor and the president of the City Council, the vice president of the City Council shall be the acting mayor. (Source: North Dakota Century Code § 40-08-13)

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

The mayor shall preside at all meetings of the City Council, but shall not vote except in case of a tie, when he shall cast the deciding vote. (Source: North Dakota Century Code § 40-08-18)

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

The mayor may remove any office appointed by him whenever he is of the opinion that the interests of the City demands such removal, but he shall report the reasons for such removal to the council at its next regular meeting. (Source: North Dakota Century Code § 40-08-19)

1.0309 Mayor May Suppress Disorder and Keep Peace

The mayor may exercise within the City limits the powers conferred upon the sheriff to suppress disorder and keep the peace. (Source: North Dakota Century Code § 40-08-20)

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

The mayor shall perform all duties prescribed by law or by the city ordinances, and shall see that the laws and ordinances are faithfully executed. (Source: North Dakota Century Code § 40-08-22)

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

The mayor, at any time, may examine and inspect the books, records and papers of any agent, employee or officer of the City. (Source: North Dakota Century Code § 40-08-23)

1.0312 Ordinance or Resolution Signed or Vetoed by Mayor

The mayor shall sign or veto each ordinance or resolution passed by the council. (Source: North Dakota Century Code § 40-08-24)



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1.0313 Message to Council

The mayor annually and from time to time shall give the council information relative to the affairs of the City and shall recommend for consideration such measures that he may deem expedient. (Source: North Dakota Century Code § 40-08-25)

1.0314 Mayor May Call on Residents to Aid in Enforcing Ordinances

When necessary, the mayor may call on each resident of the City over the age of eighteen years to aid in the enforcing of the laws and ordinances of the City. (Source: North Dakota Century Code § 40-08-26)

1.0315 Police Chief, Policeman or Law Enforcement Agency to be Appointed by Mayor

1. The mayor may appoint any number of policemen which he and the City Council may deem necessary to preserve the peace of the City, and he shall appoint one of the number as chief of police. Such appointment shall be subject to approval of the council. (Source: North Dakota Century Code § 40-08-27).

2. In the alternative, the mayor, with the approval of the City Council, may appoint a law enforcement agency to preserve the peace of the City.

1.0316 Mayor May Administer Oath

The mayor of the City may administer oaths and affirmations. (Source: North Dakota Century Code § 40-08-28)

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 a salary as full compensation for all services rendered. (Source: North Dakota Century Code §§ 40-14-01, 40-14-02, and 40-18-06)

1.0402 Report to the City Auditor

It shall be the duty of the municipal judge to make and file a full report under oath, of all fees, fines, and other monetary considerations collected by the court during the preceding month, and showing the actions in which these amounts were collected. Until such report has been filed with the city auditor, no salary shall be paid to the municipal judge. (Source: North Dakota Century Code § 40-18-06)

1.0403 Fees to City Treasury

The municipal judge shall transfer the amount of fees, fines, and other monetary consideration collected in municipal court to the city treasury at the end of each month. (Source: North Dakota Century Code § 40-18-06)



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1.0404 Court Hours

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

1.0405 Duties of Municipal Judge

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

ARTICLE 5 - Appointive Offices

1.0501 Appointive Officers in Council Cities

1. The mayor, with the approval of the City Council, shall appoint the following officers:
 - a) city auditor;
 - b) city assessor;
 - c) city attorney;
 - d) city engineer;
 - e) such other officers as the City Council deems necessary and expedient.
2. The city assessor shall be appointed at the first meeting of the City Council in September of each odd numbered year. The City Council, by majority vote, may dispense with any appointive office and provide that the duties of that office be performed by others. (Source: North Dakota Century Code § 40-14-04)

1.0502 Term of Appointive Officers

The term of all appointive officers of the City operating under the council form of government shall commence the first day of July succeeding their appointment unless otherwise provided by ordinance, and such officers shall hold their respective offices for two years, and until their successors are appointed and qualified. (Source: North Dakota Century Code § 40-14-05)

1.0503 General Duties of City Auditor

It shall be the duty of the city auditor to issue the calls for all special meetings of the City Council when requested to do so by the mayor or any two (2) members of the City Council. (Source: North Dakota Century Code § 40-08-10) The city auditor shall also keep a full and complete record of all meetings of the City Council and shall keep a book titled as the "Ordinance Book" and shall record therein at length all ordinances of the City. The city auditor shall also keep a book titled as the "Special Assessment Book" in which to keep all records of special assessments. The city auditor shall report to the City Council at the end



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of every month a list of all warrants, interest coupons, bonds or other evidence of indebtedness which may have been redeemed or paid by him during the month and they shall duly give to the council a copy of his receipt therefore. The city auditor shall further handle all correspondence, permits and licenses and shall do and perform all other duties prescribed by statutes of this state, or by an ordinance, resolution or proper instruction of the City Council. (Source: North Dakota Century Code chapter 40-16)

1.0504 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 Council 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 Council.

1.0505 General Duties of Other Appointive Officers

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

ARTICLE 6 - Special Provisions Regarding City Officers

1.0601 Bonds of Municipal Officers and Employees

1. The following officers and employees of the City shall be bonded in the accordance with the provisions of Section 40-13-02 and chapter 26.1-21 of the North Dakota Century Code:

- a) mayor
- b) city auditor
- c) municipal judge
- d) city assessor

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 his election or appointment has been given. The oath of the auditor shall be filed in the office of the county auditor. Refusal to take the oath of office shall also be deemed a refusal to serve and, therefore, a failure to qualify for the office pursuant to Section 44-02-01 of the North Dakota Century Code. (Source: North Dakota Century Code § 40-13-03)



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1.0603 Salaries of Elected Officers Fixed by Ordinance or Resolution

The Mayor and Council Members of this City shall receive compensation as established by ordinance. (Source: North Dakota Century Code §§ 40-08-07 and 40-08-15) The compensation of the Mayor shall be \$175.00 per month and \$175.00 per Board of Equalization meeting attended. The compensation of Council Members shall be \$60.00 per month and \$60.00 per Board of Equalization meeting attended. The salary of the municipal judge shall be set by resolution of the city governing body. (Source: North Dakota Century Code § 40-18-06)

1.0604 Salaries of Appointive Officers and Employees

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

1.0605 Meals, Lodging, and Mileage - Amount Allowed

1. 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. (Source: North Dakota Century Code § 44-08-04)

2. 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.

3. Mileage expenses shall be reimbursed at the rate provided for under state law for state officials and employees. (Source: North Dakota Century Code § 54-06-09) 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. (Source: North Dakota Century Code § 40-13-05)

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



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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

1. Each officer shall:
 - a) 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.
 - b) Be immediately responsible to the governing body for the effective administration of their departments and all activities assigned thereto.
 - c) 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.
 - d) Submit such reports of activities of their departments as the governing board may request.
 - e) Be responsible for the proper maintenance of all City property and equipment used in their departments.
 - f) 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.
 - g) Cooperate with other officers, departments and employees.
 - h) Have power to direct and supervise all department subordinates.
 - i) 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 \$500.00.

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 shall be based on competitive bids. (Source: North Dakota Century Code § 48-01.2-04)



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1.0702 Procedure

All supplies and contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed \$100,000.00 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 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. (Source: North Dakota Century Code §§ 48-01.2-01, 48-01.2-04)

1.0703 Open Market Purchases - Emergency

When the City governing body decides that an emergency requires the immediate purchase of supplies or contractual services, the purchases may be made without competitive bidding. (Source: North Dakota Century Code § 48-01.2-04)

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

1.0706 Conveyance, Sale, Lease or Disposal of Property

1. Real property belonging to the municipality shall be conveyed, sold, leased or disposed of, only as approved of by a two-thirds vote of all members of the governing body. Personal property shall be conveyed by a majority vote of all members of the governing body. When the property to be disposed of, whether real property or personal property is estimated, by the governing body of the municipality to be of a value of less than \$2,500.00, such property may be sold at private sale upon the proper resolution of the governing body. In all other cases, such property may be sold only at public sale or as provided under Section 40-11-04.2 of the North Dakota Century Code (Source: North Dakota Century Code § 40-11-04). Bids for the purchase or lease of real property belonging to the municipality, whether or not advertisement therefore has been made, shall be made directly to the governing body and submitted to the city auditor, who shall present any and all such bids to the governing body at its next regularly scheduled meeting. When specific statutory provisions contained in the North Dakota Century Code provide for a procedure which is in conflict with this section, governing the conveyance, sale, lease or disposal of real property, this section shall not apply insofar as it is in conflict with such state law. Said statutory procedures include the following:



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- a) 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.
- b) Conveyance of right of way for any state highway shall be as provided in chapter 24-01 of the North Dakota Century Code.
- c) 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.
- d) Conveyance of property to a municipal parking authority shall be as provided in Section 40-61-05 of the North Dakota Century Code.
- e) Lease of public buildings or portions thereof shall be as provided in chapter 48-08 of the North Dakota Century Code.
- f) 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.
- g) Granting of right-of-way for a railway, telephone lines, electric light system or a gas or oil pipeline system shall be as provided in Section 49-09-16 of the North Dakota Century Code.

1.0707 Real Property Transfer Requirements

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

ARTICLE 8 - Municipal Elections

1.0801 Qualified Electors in Municipal Elections - Restrictions

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

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

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



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1.0803 Designation of Polling Places for Municipal Elections

The governing body of the City, at the time of calling any general or special municipal election, or prior to the time of registration for said election, if said registration is required by law, shall by resolution designate such voting precincts and polling places for said election as it may deem necessary for the conduct of the same, and shall, in giving notice of said election, designate such voting precincts and polling places. (Source: North Dakota Century Code § 40-21-03.1)

1.0804 Compensation of Inspectors, Judges and Clerks at Municipal Elections

The provisions of Section 40-21-05 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. Each inspector, judge or clerk of any regular or special municipal election shall receive compensation as determined for election officials in Section 16.1-05-05 of the North Dakota Century Code. 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 shall be and are hereby incorporated by reference in this ordinance. No reference shall be made to a party ballot or to the party affiliation of a candidate in a petition to be filed or in behalf of a candidate for nomination to a public office in any incorporated City in this state.

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

The provisions of Section 40-21-07 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. A candidate for any public office in the City may be nominated by filing with the city auditor, at least sixty days and before four p.m. on the sixtieth day prior to the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last City election. Qualified electors who sign such a petition shall reside within the ward or precinct in and for which such officer is to be elected, if the election is by wards, or within the corporate limits of the City if the officer is elected at large. If a petition is mailed, it must be in the possession of the city auditor before four p.m. on the 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 qualified elector who signs a petition shall add to the petition the petitioner's mailing address.

1.0807 Ballots in Municipalities - Makeup

The provision of Section 40-21-08 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. The auditor of the City shall place only the names of the persons nominated upon the ballot. The auditor shall arrange the offices upon the ballot in the order in which they are named in the statutes. The auditor shall determine the



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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 shall be and are hereby incorporated by reference in this ordinance. When necessary, the judges of election at a municipal election shall appoint clerks to fill vacancies. The judges and clerks of a municipal election shall take the same oath and have the same powers and authority as judges and clerks of general state elections.

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.



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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 a manner it directs. A candidate involved in a tie vote may withdraw from consideration by signing a written statement to that effect in the presence of the filing officer of the election.

ARTICLE 9 – Boards and Commissions

1.0901 Library Board of Directors

1. Appointment - Term of office - Compensation – Filling vacancies - Organization.
 - a. The governing body, based upon the recommendation of the current Library Board of Directors, shall appoint a board of five directors who must be residents of the municipality, to govern the library and reading room. One member of the governing body of the municipality must be a member of the board of directors of the municipal library.
 - b. The number of directors required to fill expired terms must be appointed each year, and each director may hold office for a term of three years from the first day of July in the year of appointment and until a successor has been appointed. No member of the board may serve for more than two consecutive terms, after which an interval of one year must elapse before the same member may be reappointed. All vacancies on the board of directors must be reported by the board to the governing body, as the case may be, and must be filled thereby. An appointment to fill an unexpired term may be for the residue of the term only.
 - c. The appointing authority shall establish the rate of compensation for directors and actual expenses incurred by directors may be reimbursed at the official reimbursement rates of the appointing authority.
 - d. Immediately after the appointment of its members, the board of directors shall meet and organize by electing a president.
2. General powers and duties of board of directors.
 - a. The board of directors shall have the following powers and duties:
 - (1) To make and adopt such bylaws, rules, and regulations relating to the duties of the officers of the board as may be expedient and not inconsistent with the provisions of this Article.



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- (2) To make and adopt such bylaws, rules, and regulations for the management of the library and reading room as are expedient and not inconsistent with the provisions of this Article.
 - (3) To control, exclusively, the expenditures of all moneys collected for or contributed to the library fund.
 - (4) To have the supervision, care, and custody of the library property, and of the rooms or buildings constructed, leased, or set apart for use of library purposes.
 - (5) To contract to furnish library service and to receive library service from other counties, school districts, and cities of the state of North Dakota and adjoining states, and the state library.
 - (6) To employ qualified personnel to administer the public library and dispense library services.
- 3. Board of directors may purchase, build, or lease building for library - Library building fund - Public hearing required.
 - a. The board of directors, with the approval of the governing body, may build, lease, lease-purchase, or purchase an appropriate building for a library and purchase a site therefor. Such lease, purchase, or contract shall not be valid without the approval of the governing body of the city.
 - b. Prior to any actions on such proposals, the governing body shall hold a public hearing on the proposals. Notice of the hearing shall be published at least once, not less than six days prior to the hearing, in a newspaper of general circulation within the general public at the hearing.
 - c. After such hearing, the governing body may establish by resolution a library building fund for the purpose of construction, enlargement, or alteration of a building or for the purchase of an existing building to be used as a public library. The city auditor shall place in the library building fund all moneys for such purposes as may be appropriated by the governing body or received for such purposes from federal, state, county, or private sources. The library building fund shall not revert to the library general fund or the general fund of the city or county without authorization by formal resolution from both the library's board of directors and the governing body of the city.
- 4. It shall be the duty of the secretary to attend all meetings and to keep an accurate record of all meeting minutes and provide a copy to each member of the board. A copy of all the minutes shall be filed with the city Auditor by the librarian and copies provided to the mayor and the city council.
- 5. Vouchers - How drawn.
 - a. The duly bonded secretary or treasurer of the board of directors may draw money from the library fund upon vouchers of the board of directors without any other audit.



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6. Library free to the Residents of the City of Larimore - Subject to rules published by board of directors.
 - a. Every library and reading room established under this chapter shall be free for the use of inhabitants of the City of Larimore subject to such reasonable rules and regulations as the board of directors may deem necessary to adopt and publish to render the use of the library and reading room of the greatest benefit. The board may exclude from the use of the library and reading room any and all persons who willfully shall violate such rules.
7. Donations - How accepted - Board of directors as trustee.
 - a. All persons desirous of making donations of money, books, personal property, or real estate for the benefit of the library may vest the same in the board of directors. The board shall hold and control all property accepted for the use of the library and reading room as a special trustee.
8. Annual report of board of directors - Contents - To whom made.
 - a. The board of directors shall make a report on July first of each year to the governing body of the city stating:
 - (1) The condition of the library and property.
 - (2) The various sums of money received from all sources.
 - (3) How much money has been expended and for what purpose.
 - (4) The number of books and periodicals on hand.
 - (5) The number of books and periodicals added by purchase or gift during the year and the number thereof lost or loaned out.
 - (6) The character and kind of books contained in the library
 - (7) Such other statistics, information, and suggestions as the board may deem of general interest or as may be required by the state library.
 - b. Copies of the report shall be filed with the governing body of the city and with the state library.
9. Library records - Open records exception.
 - a. Any record maintained or received by a library receiving public funds, which provides a library patron's name or information sufficient to identify a patron together with the subject about which the patron requested information, is considered private and is excepted from the public records disclosure requirements of Section 44-04-18 of the North Dakota Century Code. These records may be released when required pursuant to a court order or a subpoena.



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ARTICLE 10 - Records Management Policy

1.1001 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.

1.1002 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:



City of Larimore Ordinances

Attachment #1

Grand Forks County Parcels GIS



City of Larimore Boundary Map

Version 3.0

Date:11.01.2014



City of Larimore Ordinances

CHAPTER TWO

ORDINANCES

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City of Larimore Ordinances

CHAPTER TWO

ORDINANCES

ARTICLE 1 - Procedure

2.0101 Enacting Clause for Ordinances

The enacting clause for every ordinance adopted by the City of Larimore shall be “Be it ordained by the City Council of the City of Larimore.” Such caption, however, may be omitted where the ordinances are published in book form or are revised and digested. (Source: North Dakota Century Code § 40-11-01)

2.0102 Procedure in Passing Ordinances

All ordinances shall be read twice and the second reading and final passage shall not be had in less than one week after the first reading. After the first reading and before final passage, an ordinance may be amended. Except as otherwise specifically provided, a majority of all of the members of the governing body must concur in the passage of an ordinance, and in the creation of any liability against the City, and in expending or appropriating money. (Source: North Dakota Century Code § 40-11-02)

2.0103 Yea and Nay Vote on Passage - When Required

The yea and nay shall be taken and entered on the journal of the governing body’s proceedings upon the passage of all ordinances and upon all propositions creating any liability against the City, or providing for the expenditure or appropriation of money, and in all other cases at the request of any member. (Source: North Dakota Century Code § 40-11-03)

2.0104 Reconsideration or Rescinding Vote

No vote of the governing body shall be reconsidered or rescinded at a special meeting unless at such special meeting there is present as large a number of members as were present when such vote was taken. (Source: North Dakota Century Code § 40-06-04)

2.0105 Publication of Ordinances

The title and penalty clause of every ordinance imposing any penalty, fine, imprisonment or forfeiture for violation of its provisions, after the final adoption of such ordinance, shall be published in one issue of the official paper of the municipality. (Source: North Dakota Century Code § 40-11-06)

2.0106 Effective Date of Ordinances

Ordinances finally approved by the governing body of a municipality and which require publication shall take effect and be in force from and after the publication thereof, unless otherwise expressly provided in the ordinance. Ordinances which do not require publication shall take effect and be in force from and after the final approval thereof unless otherwise expressly provided therein. (Source: North Dakota Century Code § 40-11-07)



City of Larimore Ordinances

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



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until the fine or costs, or both, are fully paid or discharged by labor as provided in Section 40-18-12 of the North Dakota Century Code. The court may not commit a person under this section when the sole reason for his/her nonpayment of fine or costs, or both, is his/her 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.

2.0117 General Penalties for Violation

In case no other specific penalty is prescribed for the violation of any section or provision of any ordinance of the City, any person found guilty of violating the same shall be punished by a fine of not more than One Thousand Five Hundred Dollars (\$1,500.00) or by imprisonment not to exceed thirty (30) days, or both such fine and imprisonment in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof, except as otherwise provided. Each day any person, firm, association or corporation shall violate any section or provision of any article shall constitute a separate offense.



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2.0118 Authorization to Assess Fee for Special Programs

The provisions of North Dakota Century Code § 27-01-10 requires the governing body of the City, by ordinance, to authorize the following:

1. The City municipal judge to assess a fee, not to exceed twenty-five dollars (\$25.00), as a part of a sentence imposed on a defendant who pleads guilty or is convicted of a criminal offense for which the maximum penalty that may be imposed by law for the offense includes imprisonment.
2. The fee assessed is in addition to any fine, penalty, costs, or administrative fee prescribed by law. The City municipal judge may assess the fee when sentence is imposed or when sentence is suspended or imposition of sentence is deferred unless the defendant is indigent and unable to pay the fee.
3. All fees paid to the City must be deposited monthly in the City treasury for allocation by the City Council to one (1) or more of the following programs as determined by the City Council:
 - a. A victim/witness assistance program of which the primary function is to provide direct services to victims of and witnesses to crime.
 - b. A private, nonprofit domestic violence or sexual assault program.
 - c. The statewide automated victim information and notification system, as provided for under N.D.C.C. ch. 12.1-34.

Revised 12.07.17

2.0119 Judgment for Court Administration Fee, Facility Fee, Indigent Application Fee and Indigent Recoupment Fee

1. In all criminal cases except infractions, upon a plea or finding of guilt, the court shall impose a court administration fee and facility fee in lieu of the assessment of court costs. The court may waive the administration fee and facility fee upon a showing indigency. Charges arising from the same event and disposed of on the same day shall be treated as one (1) case with one (1) fee being assessed. The court may not impose at the same time an alternative sentence to be served if the fees are not paid. The court may allow the defendant to pay any assessed administration fee in installments.
2. In addition to any fee imposed under Ordinance 2.0119 subsection (1) the court shall require an indigent defense application fee in those criminal cases where indigent defense application is made. The court may require any person convicted of a criminal offense in violation of this code to pay an indigent recoupment fee in cases where indigent defense services were provided.
3. The fees referred to under Ordinance 2.0119 subsections (1) and (2) shall be assessed at the following amounts if required:
 - a. Administration fee: \$30.00.
 - b. Facility fee: \$25.00.
 - c. Indigent defense application fee: \$25.00 (if applicable).
 - d. Indigent recoupment fee: \$50.00 to \$300.00 (if applicable).
4. All fees assessed under Ordinance 2.0119 must be deposited in the city general fund.

Revised 12.07.17



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CHAPTER THREE

PUBLIC PLACES AND PROPERTY

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City of Larimore Ordinances

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 supervisor or 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 the amount of Five Thousand and no/100ths (\$5,000.00) Dollars 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 supervisor or superintendent shall, at his or her sole discretion, direct the owner to make such repairs as may be necessary to restore such sidewalk to a safe condition or to remove the sidewalk. Should the owner fail, within a reasonable time, to follow the directions of the city supervisor or superintendent, the city supervisor or 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

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



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- a) Name and address of the owner, or agent in charge, of the property abutting the proposed work area.
- b) Name and address of the party doing the work.
- c) Location of the work area.
- d) Attached plans or sufficient sketches showing details of the proposed alterations.
- e) Estimated cost of the alterations.
- f) Such other information as the city supervisor or superintendent shall find reasonably necessary to the determination whether a permit should be issued hereunder.

3.0107 Standards for Issuance of Permit

1. The city supervisor or superintendent shall issue a permit, when it is approved by the city council, and hereunder when it is determined:

- a) That the work will be done according to the standard specifications of the City for public work of like character.
- b) 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.
- c) That the health, welfare and safety of the public will not be unreasonably impaired.

3.0108 Sidewalks Built to Grade Specifications

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

- a) All sidewalks shall be constructed of concrete.
- b) 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.
- c) All sidewalks shall be at least four (4) inches in thickness.
- d) All sidewalks shall be laid out as follows:
 - (1) In locations where the right-of-way is sixty (60) feet or less the sidewalk shall be constructed eighteen (18) inches out from the property line.
 - (2) 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.



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(3) 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, and then only with specific approval of the governing body.

(4) 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.

e) 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

1. 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 as follows:

a) Aggregate shall consist of the following:

(1) Sand for the construction of sidewalks shall be clean, washed material, free of any deleterious and organic matter. The sand shall be a type commonly used in the mixing of Portland cement concrete.

(2) Gravel shall be clean, washed material, free of any deleterious and organic matter. Maximum allowable size for sidewalk mix shall be three-fourths inch. The type of aggregate to be used is that which is commonly incorporated in concrete construction.

(3) Cement for the mixture shall be Portland cement of the standard type as accepted by the American Society of Testing Materials for concrete mixtures.

b) The subgrade shall be thoroughly prepared and compacted before any sidewalk is laid or concrete is placed. Where the sidewalk will rest on fill, said fill shall be compacted in six inch layers and shall be tamped with mechanical devices, or similar devices, to a density that allows no settling. In lieu of compaction of soil, gravel may be used and it shall be thoroughly compacted and rolled to assure no further settling.

c) Expansion joints shall be placed in the sidewalk proper and shall be of the pre-molded type one-half inch thick. Expansion joints shall be placed at uniform intervals, but in no case shall the distance between expansion joints exceed twenty-five feet. Where the sidewalk will be laid next to an existing curb, or where it shall be poured separate from the curb, or any other concrete structure, to include driveways and existing sidewalks, expansion joints shall be placed between the existing structure and the newly poured mixture.

d) There shall be provided in all sidewalks at five foot minimum intervals contraction joints which shall be struck to a depth to at least three-sixteenths of an inch and shall not exceed one-eighths of an inch in width. These shall be true and at right angles to the edges of the sidewalk. The sidewalk



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shall slope at the rate of one-quarter inch per foot of width from the property edge toward the street side of the sidewalks.

e) Strength of concrete mixture shall be three thousand pounds per square inch of concrete and the finish shall be a wood floated finish, broom finish or belted finish.

3.0110 City Contractor

1. 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 supervisor or superintendent and shall conform to specifications filed with the city auditor by the city supervisor or superintendent and approved by the governing body.

2. Any person desiring to engage in the business of constructing paved driveways, sidewalks, curbs and retaining walks in or along the streets and alleys shall make application to the city auditor for a license to do such work, and shall present with his application evidence of experience and competency in such work. If upon examination of such evidence the city auditor is satisfied as to the experience and competency of the applicant, they shall approve their application, which shall be filed with the city auditor, together with a surety bond in the sum of Five Thousand Dollars (\$5,000.00) approved by the governing body for the execution of all work in strict conformity with the provisions of this chapter and the protection, indemnification and saving harmless of the City from any or all loss, claim, suit or damages, direct or consequential, which the city may sustain through violation of any of the provisions of this chapter, by the license holder, or through negligence of the license holder, or in any other manner whatsoever. Upon the filing of the application and bond, the city auditor shall issue a license to the applicant.

3. 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 maintain and keep in good repair, for a period of two (2) years from date of final estimate 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 an extent that, in the opinion of the city supervisor or superintendent, the same is not a satisfactory compliance with the specifications for the construction thereof, then the city supervisor or superintendent may direct that such sidewalks, driveways, curb and gutter, or paving repairs be immediately repaired or re-laid in whole or in part as they shall deem best, and the contractor shall immediately cause the same to be repaired or re-laid; and in the case of the contractor's neglect, refusal or failure so to be repaired or 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.



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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 supervisor or 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 (\$25.00) nor more than one thousand dollars (\$1,000.00).

3.0202 Destruction of City Property - Prohibited - Penalty

It shall be unlawful for any firm, person or corporation to willfully and without just cause or excuse, to injure, deface or destroy any property owned by the City or held by the City for public use. Any person violating the provisions of this section shall be guilty of an offense and be fined not less than twenty-five dollars (\$25.00), nor more than one thousand five hundred dollars (\$1,500.00) or be imprisoned 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 street superintendent or the city engineer or the official who supervises public improvements.

3.0205 Wires

It shall be unlawful to erect any poles or wires or maintain any poles or wires over any public place, street, alley or other public way without having first secured permissions from the City governing body. Any person or company which maintains poles and wires in the streets, alleys or other public places, shall, in the absence of provisions in the franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible, and keep all such trees and shrubs near such wires and poles properly trimmed, subject to the supervision of the city supervisor or 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. It shall be unlawful to deposit on any street or public place any material which may be harmful to the pavement or surface thereof, or which may do injury to any person, animal or property or render the same unclean or nuisance.



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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, crosswalk, culvert, bridge or viaduct over which the same are transported, 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 governing body and, in addition thereto, 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. Provided that when the specified load limits herein contained will cause damage to the city paved streets, the governing body by resolution adopted, and made public, may lower said load limits for such period of time it may deem necessary. The provisions of this section shall not apply to State and Federal highways through the city. With the exception of those vehicles that are directly involved in deliveries within the residential area, no engine, tractor, wagon, truck, or other vehicle, object, or thing, over five (5) tons gross weight shall be operated on streets in residential areas. In addition to the reasonable cost of repair as stated above, any person in violation of this ordinance must be assessed a fee in the amount of twenty dollars. (Source: North Dakota Century Code § 39-12-08).

3.0210 Removal of Snow and Ice from Sidewalk

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

3.0211 Removal of Snow and Ice by City

In case the owner of any lot in the City refuses or neglects to remove such ice and snow from the sidewalk in front of or along a lot therein, within the same time above stated or refuses to sprinkle ashes or sand on the same within the time specified for removal in such manner as to make such sidewalk safe for travel of pedestrians thereon, the same may be removed by or under the direction of the city engineer or street superintendent of the City, or ashes or sand sprinkled thereon, and the necessary expenses shall be



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

3.0212 Assessments by City Supervisor or Superintendent When Work is Done by City

Whenever the street superintendent shall, pursuant to Section 3.0211 of this article, remove or cause to be removed any snow or ice from any sidewalk or sidewalks along or in front of any building, grounds or premises, the city supervisor or 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 city supervisor or superintendent. (Source: North Dakota Century Code § 40-29-18)

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

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

3.0214 Street Cleaning - Snow Removal

Whenever, in the judgment of the governing body or the city supervisor or 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. See City of Larimore Ordinance § 9.1411 for seasonal parking regulation.

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 supervisor or 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.



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3.0216 The Deposit of Snow or Ice on City Streets or Sidewalks Prohibited—Penalty

1. No person shall deposit or cause to be deposited any snow or ice upon any city street or sidewalk; nor shall snow or ice be deposited or moved upon public or private property so as to create a traffic hazard or to interfere in any manner with the vision or view of a driver of a motor vehicle or pedestrian at or near street intersections or where traffic merges or near school/pedestrian crossings.
2. No person shall deposit any snow or ice removed from any parking lot, filling station area, driveways, or from any other private property upon any public or city property or city street or sidewalk.
3. No person shall deposit or cause any snow or ice to be deposited on or against any fire hydrant or traffic-signal-control device or traffic sign or appurtenance.
4. Exceptions — This ordinance shall not apply to the following:
 - a. Snow shoveled from sidewalks to the street or alley in the downtown area, provided the downtown area has no place other than the sidewalk and street to put snow. For the purposes of this exception, the downtown area is defined as the area between the following:
 - (1) The southern boundary of the downtown area begins at the intersection of Railroad Street and Towner Avenue continuing in a northerly direction to the northern boundary of the downtown area ending at the intersection of 4th Street and Towner Avenue.
 - b. City Employees, while in the course of their employment for the city, may place snow on the streets or alleys while removing the snow from the city.
 - c. By motion of the City Council, the ordinance codified in this chapter may be suspended for a period of time and upon conditions set by the city council.
5. Penalty
 - a. The penalty for a violation of this chapter shall be set by resolution in the fees and rates adopted by the city commission.
6. Objections to assessment of a penalty
 - a. Any person subject to a penalty for a violation of this chapter may object to the penalty by submitting a written objection to the city auditor within 30 days of being assessed the penalty.
 - b. Upon receiving a written objection, the city auditor shall notify the person objecting of the date, time and location of the next regularly scheduled city council meeting and place the party's objection on the city council agenda.
 - c. At the next regularly scheduled city council meeting, the city council shall consider and hear any objection to the assessment of a penalty for a violation of this chapter. After considering and hearing the objection, the city council may affirm, revise or eliminate the penalty.
7. Payment of penalty
 - a. The person causing the violation of this chapter shall be responsible to pay the penalty. Should that person fail to pay the penalty, these charges shall be assessed to the property from where the snow was taken.



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3.0217 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.

3.0218 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.

3.0219 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.

3.0220 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.

3.0221 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.

3.0222 Fees for Excavation Permits

There shall be no fee for such permit, but the applicant shall be responsible for repairs as further provided in this article.

3.0223 Bond - Excavations

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



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3.0224 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 five thousand (\$5,000.00) if no pavement is involved, and the sum of ten thousand (\$10,000.00) if pavement is involved, to insure the proper restoration of the area involved. Any balance will be returned to the applicant without interest after the excavation area is restored.

3.0225 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.

3.0226 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 city supervisor or superintendent.

3.0227 Supervision of Excavation Work

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

3.0228 City Buildings, Equipment and Vehicles - Smoking

Smoking or the use of, smokeless tobacco products, vapor products, and tobacco-derived products relative to cigarettes, is not permitted in City buildings, equipment and vehicles.

3.0229 Placement of Mailboxes—Violations

1. Mailboxes for home delivery of U.S. Postal Service mail shall be physically attached to the home where the mail is to be delivered. The mailbox shall be no larger than six (6) inches high, twelve (12)



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inches wide, and two (2) inches deep. The mailbox and any attachment shall not be physically located on City property, or City easement. This law shall not affect those mailboxes already erected with the approval of the United States Post Office in Larimore, ND.

2. Time of taking effect. This ordinance shall be in full force and effect from and after its final passage and adoption.

3. Any person who violates or fails to comply with any provision of this Ordinance, is guilty of an infraction and shall be subject to a fine of not more than one thousand dollars.

Revised 08.01.16

3.0230 Metal Detecting And Digging

1. Except as provided in subsections (2), (3), (4) and (5), it shall be unlawful for any person, while located on City property, to:
 - a) possess or use a mineral or metal detector or any other device or probe to search for objects in, on or below the surface of the soil;
 - b) dig, excavate or in any other way disturb the surface of the soil; or
 - c) remove any object found in, on or below the surface of the soil.
2. Notwithstanding the prohibitions in subsections (1)(a)-(1)(c), the use of a metal detector on City property is permitted to locate and recover a specific item of personal property which has been lost by the person.
3. Notwithstanding the prohibitions in subsections (1)(a)-(1)(c), the use of a metal detector on City property is permitted if the person first obtains permission from the owner of the property and a Permit for Metal Detecting and Digging from the City. Permission for use of a metal detector on City property may be granted by:
 - a) if the City property consists of City parks or City property not defined under subsection (3)(b), a Permit for Metal Detecting and Digging, or
 - b) if the City property consists of the land lying between property lines and the streets, avenues or ways within the City, the property owner of the adjacent property may grant verbal permission.
4. A Permit for Metal Detecting and Digging may be purchased at City Hall for ten (\$10) dollars and is valid until the end of the calendar year in which the permit was purchased. Individuals under the age of twelve (12) need not purchase a permit if properly supervised by an individual with a permit. All funds received by the City from the purchase of a Permit for Metal Detecting and Digging shall be utilized by the City Park Board.
5. This section shall not apply to activities conducted by City employees, or City designees, during the course of their duties.
6. Any person violating this section shall be fined in the amount of \$25.00. A second offense, within one year of being cited under this ordinance, at the discretion of law enforcement, may be fined in the amount of \$50.00.

Revised 06.03.19



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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 law enforcement officer.

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 law enforcement officer shall be responsible for the notice and reporting requirements of this article. (Source: North Dakota Century Code § 40-05-02(20))

3.0304 Report of Abandoned Property Sale

At the time specified in said notice the said property shall be sold by the law enforcement officer of the City, at public auction, to the highest bidder for cash. The law enforcement 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



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hereinafter provided by the owner of said property, the said money shall thereupon be transferred to the general fund of the City.

3.0307 Redemption of Personal Property

Any person owning such personal property seized as aforesaid, may at any time prior to the sale thereof, upon furnishing satisfactory proof of his ownership thereof to the governing body, reclaim such property upon paying the expenses incurred by the City for the seizure, storage or advertising the sale thereof and any person owning such property as aforesaid may at any time within six (6) months after such sale and upon making satisfactory proof to the governing body of his ownership thereof, claim the proceeds of such sale, upon payment to the City of the necessary expenses incurred by the City for the seizure, storage and sale of said property. (Source: North Dakota Century Code § 40-05-02(20))

3.0308 Annual Report - Unclaimed and Abandoned Property

The law enforcement agency prior to June 1 of each year shall submit to the city auditor a written list of all unclaimed and abandoned property held by the City which has not been sold pursuant to the provisions of this article. The city auditor shall bring such list to the attention of the governing body at the next regular meeting. (See Section 5.0203)

ARTICLE 4 - House Numbering

3.0401 House Numbering Required

1. All lots, buildings and structures in the City shall be numbered in accordance with the following plan:

a) Names of Streets and Avenues. The names of the streets and avenues of the city shall remain as they now are and appear on the official map of the city entitled "Town site of Larimore," which map is on file in the office of the city auditor and the same is hereby made a part hereof.

b) Buildings: Numbering of. All buildings within the city shall be numbered in accordance with the map and plans showing the system of numbering such buildings, now on file in the office of the city auditor, that is to say: the numbers run from Towner Avenue West according to the streets by hundreds, and East of Towner Avenue by hundreds, and each fifty feet shall represent a number, all odd numbers on the North and East side of the streets and avenues, and all even numbers on the South and West of the streets and avenues, East or West of Towner Avenue.

c) Numbers to be conspicuous on Street Side. Numbers of all buildings within the city, shall be exhibited in plain sight on the street side of each and every of said buildings, and each and every building hereafter erected within said city shall have exhibited on the street side thereof the number of said building, in accordance with Section 3.0402 of this article, within thirty days after its completion.

d) Numbering Where More Than One Building on a Lot. Where more than one building is located on the same lot, the one first in the order of numbering shall receive the lot number and the next building shall take the lot number with one-half or other necessary fraction added thereto; and



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where a stairway opens from the street; between buildings, such entrance shall take the number of the building having the smaller number with one-half added to such number.

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. In the event that any owner of any of said buildings now or hereafter erected, within the limits of said City, or other person having the custody and control of said buildings, shall refuse or neglect to cause to be placed thereon the number thereof in accordance with this chapter, the City Council shall have the power and authority to cause the number of the said building to be exhibited thereon as set herein, the cost for so doing to be collected of the owner or person having control thereof at the suit of the city.

ARTICLE 5 – Trees – Shade Trees

3.0501 Definitions – Street Trees and Park Trees

1. “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.
2. “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 Shade Trees Responsibilities and the Larimore Park Board

It shall be the responsibility of the City 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 be reviewed annually by the City governing body and upon their acceptance and approval shall constitute the comprehensive tree plan for the City.

3.0503 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 Larimore Park Board 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 Larimore Park Board.



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3.0504 Review by Larimore City Council

The Larimore City Council shall have the right to review the conduct, acts and decisions, in reference to Shade Trees, of the Larimore Park Board. Any person may appeal from any ruling or order, in reference to Shade Trees, of the Larimore Park Board to the city governing body, which may hear the matter and make a final decision.

3.0505 Planting permit required.

It shall be unlawful to plant any tree or shrub in any public way or boulevard without having secured a permit therefor. Applications for such permits shall be made to the City. Permits shall be secured by the property owner. The City shall not grant such a permit unless the property owner agrees:

- a. In new plantings the trees will be planted no closer than three (3) feet to the curb line or closer than four (4) feet to any sidewalk from the curb line or curb. In old plantings the trees shall be planted in line with the existing old trees situated in the block.
- b. That the planting shall be completed in the season stated on the permit, and not later than ninety (90) days after the date the permit is issued,
- c. That the species of trees to be planted shall be Summit Green Ash, Black Ash, European Mountain Ash, Hop Hornbean, Horse Chestnut, Common Hackberry, Native Bur Oak, Patimore Ash, American Linden, Redmond Linden, Dropmore Linden, Canadian Linden, Silver Queen Maple, Honeylocust, Mayday, Showy Mountain Ash. Other species of trees may be planted with the approval of the city council.
- d. That the planting of trees shall not be closer than four (4) feet to any sidewalk or the normal location of the sidewalk from the curb line or curb on any street corner intersection or closer than five (5) feet to any alley entrance or exit.
- e. That the trees to be planted will not be less than twenty (20) feet apart. Smaller species may be planted with less distance between trees with the approval of the city council.
- f. Unless otherwise allowed for specific reasons, that all trees shall have comparatively straight trunks, well developed leaders and tops and that all trees must be free from insects, diseases, mechanical injuries and other objectionable features at the time of planting.

3.0506 Plantings Prohibited

American Elm, Cottonwood, Chinese Elm, Willow, Soft Maple, Box Elder, Juniper, Poplar, Evergreens, All species of Willow, shrubs or hedges shall not be planted along any street.

3.0507 Removal of Illegal Plantings

In addition to all other remedies provided, the City Council is empowered to order the removal of any trees or shrubs planted in violation of this ordinance.



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3.0508 Dangerous Trees

Any tree, shrub, or hedge which overhangs any sidewalk, street or other public place in the city in such a way as to impede or interfere with traffic or travel or within fourteen (14) feet of a street or eight (8) feet of a sidewalk level measured vertically, shall be trimmed by the owner of the premise abutting or of the premises on which such tree or shrub grows so that the obstruction shall cease. Any tree or limb of a tree which has become likely to fall on or across any public way or place shall be ordered removed by the City Council.



City of Larimore Ordinances

CHAPTER FOUR

FIRE PROTECTION AND PREVENTION

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CHAPTER FOUR

FIRE PROTECTION AND PREVENTION

ARTICLE 1 - Organization and Regulation of the Larimore Volunteer City Fire Department

4.0101 Establishment of Fire Department

There is hereby created and established a volunteer city fire department, and if hereto created, such volunteer department is hereby continued, consisting of a chief, and such other members of said fire department as may from time to time be provided for by the governing body. Members shall be appointed in the manner provided for in the by-laws and constitution of the city fire department.

4.0102 Supervision by Fire Chief

The fire chief shall have control, subject to the order and direction of the city governing body, of the fire department and all fire apparatus belonging to the City. Whenever any fire apparatus or equipment needs to be repaired, it shall be the duty of, that Company's Captain, to ensure timely repair of the equipment in accordance the by-laws and constitution of the city fire department.

4.0103 Volunteer Fire Department

The fire department of the City shall be composed of volunteer firemen who shall receive no wages or salaries therefore.

4.0104 Officers of Fire Department

The officers of the volunteer fire department of the City shall consist of a chief of the fire department and an assistant chief of the fire department, who shall be duly elected from the membership of said department, plus such other officers as the members thereof deem necessary. Said officers are to be elected in January of each year.

4.0105 Chief of Fire Department – Powers, Salary

The chief of the fire department shall be a competent and experienced fireman who shall have entire charge and control of the department at all fires. The fire chief shall further have charge, supervision and control over all property, equipment and supplies of the fire department entrusted to his care during his tenure of office. The fire chief may be paid a salary as set by resolution of the city governing body unless the Incident Command System has been put into effect as drawn out in the fire department's by-laws and standard operating guidelines.

4.0106 Duties of Fire Chief

1. The fire chief shall have the following duties and powers:
 - a) To keep records. The fire chief shall ensure records are kept, by the department secretary, in books for that purpose, a full and complete record of the organization of the department, its membership, vacancies, appointments and dismissals, and of all notices issued by the department. The fire chief shall also keep a record of all transactions of the department, all fires occurring in the City, and the cause thereof when ascertainable, and of all property placed in the fire chief's charge. Such records shall always be open to the inspection of any member of the city governing body.



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- b) To command and control. It shall be the duty of the fire chief to preserve order and discipline at all times in the department, and to require and force a strict compliance with the ordinances of the City relating to the department and the rules and regulations pertaining thereto. At all fires the fire chief shall have sole and absolute control and command over all persons connected with the fire department of the City. The Fire Chief is in charge unless the Incident Command System has been put into effect as drawn out in the fire department's by-laws and standard operating guidelines.
- c) To make reports. The fire chief shall report at the end of June and when required to do so, to the city governing body. The fire chief shall file an annual report in with the city auditor which will include the condition of the fire department, the number of fires that have occurred in the City since the last report, and during the year in the annual report, and the cause of the same, so far as can be ascertained, the number of buildings destroyed or injured, the names of the owners or occupants of the same as nearly as can be ascertained, and the amount of loss upon the buildings and other property. The fire chief shall also file reports on fires to the state fire marshal as required by North Dakota Century Code § 18-01-06.
- d) To make annual inventory. The fire chief shall, by the end of January in each year, make a complete list and of all fire department property, stating its condition. The fire chief shall also report as to such new apparatus or supplies as in the fire chief's judgment may be needed to properly maintain the department.
- e) To prepare a budget. The fire chief shall prepare a budget of the cost of providing for and maintaining the fire department of the City during the succeeding fiscal year.
- f) To keep property in good condition. The fire chief shall keep property in good condition and see that all fire department equipment and facilities are kept clean and in good working condition.
- g) To have charge of alarm system. The fire chief shall have charge of the fire alarm systems of the City.
- h) To control crowds at fires. The fire chief may prescribe limits in the vicinity of any fire within which no persons, except those admitted by the fire chief's order, are allowed.
- i) To order removal of property. The fire chief may order the removal of property whenever it shall become necessary for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property.
- j) To command assistance. The fire chief may command assistance from persons in attendance at any fire for the extinguishing of fires.

4.0107 Police Powers of Fire Department

All members of the fire department of the City, while on active duty, shall have the powers of the policemen on duty and are authorized to arrest any person or persons who shall interfere or attempt to interfere with or to hinder any member of the department in the performance of their duty.

4.0108 Unlawful to Hinder Fire Department



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It shall be unlawful for any person to prevent, interfere with, or in any manner hinder the fire department, or any member thereof, while engaged in the discharge of duty at a fire, or to disobey any lawful command of the fire chief or acting chief of the fire department.

4.0109 Driving Over Fire Hoses

No person shall drive any automobile or other vehicle of any kind whatsoever, upon or over any hose belonging to the fire department while the hose is laid in the streets and alleys of the City.

4.0110 False Alarms of Fire

It shall be unlawful for any person knowingly to give or cause to be given any false alarm of fire, or to give or cause to be given, while a fire is in progress, a second or general alarm for the same fire, or tamper with or set off any fire alarm or signal box with like intent; or intentionally interfere with or injure any property of any kind belonging to or used by the fire department; or hinder or delay any apparatus or equipment or vehicle belonging to the fire department.

4.0111 Taking Fire Equipment

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

4.0112 Entering Fire Department

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

4.0113 Fire Department Service Outside Corporate Limits

Members of the fire department are authorized to go outside the corporate limits of the City for the purpose of rendering aid to other fire departments or of extinguishing fires or rendering aid in the case of accidents upon orders of the fire chief, the assistant chief or presiding officer of the City governing body. Where the City has undertaken by contract to render service to property outside the corporate limits, the fire department may leave the corporate limits in the fulfillment of such contract.

ARTICLE 2 - Fire Limits

4.0201 Fire Limits

All that portion of the City of Larimore within the municipal limits of the City, including all areas duly platted and recorded, as depicted in CHAPTER ONE - GOVERNMENT ORGANIZATION - MAYOR - COUNCIL CITIES, Section 1.0102 attachment #1, is hereby defined and shall be known as and constitute the fire limits of the City of Larimore

4.0202 Fire Limits - Erection of Buildings Within

No buildings or parts of any buildings shall be erected within the fire limits unless the construction meets the provisions of the North Dakota State Building Code, which is the official building code of the City. Outbuildings may be erected of any other material, not necessarily of fireproof qualities, by obtaining a



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permit from the City governing board upon application therefore which may be granted or refused in the City governing board's discretion.

4.0203 Alterations and Additions in Fire Limits

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

4.0204 Inspection of Premises, Materials, Order

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

4.0205 Repairs to Damaged Buildings

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

ARTICLE 3 - Fires in Public Places

4.0301 Smoking - Setting Fires

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

4.0302 Notice - Smoking Ordinance

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



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4.0303 Bonfires Prohibited - Exception

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

4.0304 Hot Ashes and Other Dangerous Materials - Depositing of

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

4.0305 Open Burning

1. Open burning shall be conducted in accordance with this section, or as required by other governing agencies regulating emissions.

Any person who kindles or maintains non-recreational fires:

a) Shall notify the fire department prior to commencement of open burning.

b) Shall not kindle, maintain or burn any;

(1) Putrescible animal or vegetable wastes from the handling, preparation, cooking and consumption of food either openly or in containers.

(2) Yard waste including leaves, grass, or brush.

c) Open burning of paper products is prohibited.

d) Open burning shall only be performed when time and atmospheric conditions comply with the limits set forth in the open-burning permit.

e) Open burning shall not be conducted within 50 feet of any structure or other combustible material. Conditions which could cause the fire to spread to within 50 feet of a structure shall be eliminated prior to ignition.

f) The required clearance from structures and other combustible material is allowed to be reduced as follows:

(1) Not less than 15 feet when burning is conducted in an approved burning appliance.

(2) Not less than 25 feet when the pile is 3 feet or less in diameter and 2 feet or less in height.



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g) A garden hose connected to a working water supply or other approved fire-extinguishing equipment shall be readily available for use at open burning sites.

h) Burning material shall be constantly attended by a person knowledgeable in the use of the fire-extinguishing equipment required by this section and familiar with the permit limitations which restrict open burning. An attendant shall continually supervise the burning material until the fire has been extinguished.

i) The fire chief or his designated representative is authorized to require that open burning be immediately extinguished if they determine that smoke emissions are offensive to occupants of surrounding property or if the open burning is determined by the fire chief or his designated representative to constitute a hazardous condition.

2. The following applies to any person who kindles or maintains a recreational fires:

a) That the recreational fire shall be contained within a spark arrester. The spark arrester shall be constructed of wire mesh or other noncombustible material with openings not larger than one inch.

b) No person shall kindle, maintain or burn, in a recreational fire, any putrescible animal or vegetable wastes from the handling, preparation, cooking and consumption of food.

c) Recreational fires shall not be conducted within 25 feet of a structure or combustible material unless contained in a fire pit. Condition which would cause a fire to spread to within 25 feet of a structure shall be eliminated prior to ignition.

d) Buckets, shovels, garden hoses, or other approved fire-extinguishing equipment shall be readily available for use at recreational fires.

e) Recreational fires shall be constantly attended by a person knowledgeable in the use of fire-extinguishing equipment required by this section. An attendant shall supervise a recreational fire until such fire has been extinguished.

f) Recreational fires shall only be initiated when time and atmospheric conditions permit.

g) The fire chief or his designated representative is authorized to require that recreational fires be immediately extinguished if such fires are determined by the chief to constitute a hazardous condition.

4.0306 Reports of Hotel or Apartment Fires

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

ARTICLE 4 - Fire Prevention

4.0401 Adoption of Fire Codes

1. There is hereby adopted by the City of Larimore for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code and the whole thereof, save and except such portions as are hereinafter deleted, modified or



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amended, of which code not less than three (3) copies have been and are now filed in the office of the City Auditor and the same are hereby adopted and incorporated in full as if set out at length herein.

2. The fee for any permit or license required by the fire prevention code, where no other license or permit fee is fixed elsewhere in the city ordinances, shall be the sum of fifteen dollars (\$15.00) to be paid to the chief of the fire department and by him to be paid into the City treasury without delay.

4.0402 Establishment of Bureau of Fire Prevention

1. The fire prevention code shall be enforced by the bureau of fire prevention in the fire department of the City which is hereby established and which shall be operated under the supervision of the chief of the fire department.

2. The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary.

4.0403 Storage of Flammable Liquids

No new bulk plants or tanks for storage of flammable liquids shall be permitted within the limits of the City except as authorized by the governing body.

4.0404 Storage of Liquefied Petroleum

The limits or area for storage of liquefied petroleum shall comply with the limits established the North Dakota state fire marshal. (Source: North Dakota Century Code § 18-09-02)

4.0405 Modifications of Fire Code

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

4.0406 Appeals from Decisions of Fire Chief

Whenever the chief of the fire department shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the City governing body within thirty (30) days from the date of the decision of the appeal.

ARTICLE 5 - Penalty for Violation of this Chapter

4.0501 Penalty - Violations of Fire Protection and Prevention Chapter

1. Any person who violates any provisions of this chapter or who fails to comply with or who violates or fails to comply with any order made pursuant to this chapter or who builds in violation of any detailed statement of specifications or plans, certificate or permit submitted and approved under this chapter and from which no appeal has been taken or who fails to comply with an order as affirmed or modified by the governing



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body or by a court of competent jurisdiction, within the time fixed therein, shall be in violation of this chapter. Said violation is punishable by a fine of not more than one thousand five hundred dollars (\$1,500.00), thirty (30) days imprisonment or both. The imposition of a penalty for a violation shall not excuse the violation or permit it to continue; and any person in violation of this chapter shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, within ten days. Failure to correct or remedy the violation constitutes a separate offense.

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

ARTICLE 6 - Firearms, Fireworks, And Explosives

4.0601 Firearms not to be Furnished to Minors

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

Revised 01.03.17

4.0602 Exploding Firearms

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

Revised 01.03.17

4.0603 Blank Cartridge, Pistols, Etc. – Manufacture, Use and Sale of

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

Revised 01.03.17

4.0604 Fireworks Defined

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

Revised 01.03.17

4.0605 Fireworks—Discharging of, Sale of

The sale, use, firing or discharging of any rocket, firecracker, torpedoes, roman candles or of any such “Fourth of July” explosive whatsoever, or fireworks within the City limits is expressly prohibited at any time whatsoever, except as provided by state statute, or as authorized by the governing body with the exception of June 27th to July 5th and December 26th to January 1st.



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Revised 12.07.17

4.0606 Use Dates

No person shall within the City limits set off, explode or detonate any firework before June 27th or after July 5th and before December 26th or after January 1st in any year, except as provided in this chapter.

Revised 12.07.17

4.0607 Hours of Use

No person shall set off, explode or detonate any fireworks other than during the hours of eight a.m. and midnight during the dates listed in this chapter.

Revised 01.03.17

4.0608 Exceptions to Fireworks Restrictions

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

Revised 01.03.17



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CHAPTER FIVE

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CHAPTER FIVE

LAW ENFORCEMENT

ARTICLE 1 - Organization and Regulations

5.0101 Establishment City Law Enforcement

Law enforcement may be provided for the City of Larimore by establishment of a police department or through contract with the County Sheriff's Office as may be authorized by the governing body

5.0102 Establishment of a Police Department

1. The police department created for the City and by this chapter shall consist of the chief of police and as many police officers as may be authorized by the governing body.
2. In case of riot or unusual or general disturbances of the peace, the chief of police shall have the power to appoint such other and additional police officers as deemed necessary for the preservation of the public peace.
3. The chief of police shall be the keeper of any city jail and shall have custody of all persons incarcerated therein, providing a jailer at all times when there is somebody incarcerated therein. The chief of police shall keep such records and make such reports concerning the activities of the department as may be required by statute or by the governing body. The chief shall be responsible for the performance by the police department of its functions and all persons who are members of the police department shall serve subject to the orders of the chief of police. The chief of police shall have the authority to administer oaths to police officers under the chief's supervision.
4. The chief of the police department may make or prescribe rules and regulations for the department. Such rules, when approved by the governing body, shall be binding on members of the department. Such rules and regulations may cover, besides the conduct of the members, uniforms and equipment to be worn or carried, hours of service and all other similar matters necessary or desirable for the better efficiency of the department.

5.0103 Establishment of Law Enforcement Through Contract

A contract with the Grand Forks County Sheriff's Office to provide law enforcement for the City of Larimore shall define at a minimum:

- a) The number of deputies to be assigned to the city.
- b) The number of hours per week that the Sheriff's Office will provide law enforcement coverage to the city.
- c) Boundaries within which the deputies will provide law enforcement coverage.



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- d) Replacement deputies for sick leave and annual vacation times for the assigned deputies.
- e) Replacement and maintenance of law enforcement vehicles.
- f) Annual cost of services provided to the city.

5.0104 Duties of Peace Officers - General

1. It shall be the duty of the law enforcement provider, and each and every member of the peace officers force, to notice and diligently inquire into and report all violations of the city ordinances or the criminal laws of the state, to make complaint against the person or persons guilty thereof and to attend all trials of offenses in regard to those complaints.
2. Within the City limits and for a distance of one and one-half (1 ½) miles in all directions outside the City limits, peace officers shall perform their duties and exercise the powers of peace officers as defined and prescribed by the laws of the State of North Dakota. (Source: North Dakota Century Code § 40-20-05)

5.0105 Peace Officers - Hot Pursuit - Defined

A peace officer in “hot pursuit” may continue beyond the one and one-half (1 ½) mile limit to make an arrest, in obedience to a warrant or without a warrant under the conditions of Section 29-06-15 of the North Dakota Century Code, whenever obtaining the aid of peace officers having jurisdiction beyond that limit would cause a delay permitting escape. As used in this subsection, “hot pursuit” means the immediate pursuit of a person who is endeavoring to avoid arrest. (Source: North Dakota Century Code § 40-20-05)

5.0106 Duties of Peace Officers - Service of Process, Etc.

Peace officers shall serve and execute any warrant, writ, process, order or notice issued to them by a municipal judge within the City in any civil or criminal action or proceeding in which the City is a party or is interested beneficially. The peace officers, within the limits prescribed in this section, may serve and execute all writs and process issued by justices in civil actions. In addition to the duties set out in this section, the peace officers shall perform such other duties as may be prescribed by their superiors, and governing body. (Source: North Dakota Century Code § 40-20-05)

ARTICLE 2 - Powers and Duties

5.0201 Money or Property of Arrested Persons

It shall be the duty of the law enforcement to safely keep all moneys or property which may be found on the person, in possession of or claimed by any person arrested for crime and pay or deliver over the same by the order of the municipal judge, and forthwith after taking the same, to report in writing the kind and amount thereof to the municipal judge.



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5.0202 Arrested Persons

Any peace officer after making any arrest, with or without a warrant, for any violation of City ordinances shall take the person or persons so arrested, without any unreasonable delay, before the municipal judge to be dealt with according to law and the ordinances of the City.

5.0203 Stolen, Abandoned, Lost Property

The law enforcement shall have the custody of all lost, stolen or abandoned property recovered in the City and shall make a report concerning such property as provided by Section 3.0308 of these ordinances.

5.0204 Traffic Administration

Law enforcement shall have such duties concerning enforcement, investigation, record keeping and other matters concerning traffic administration as are more fully set forth in Article 2 of Chapter 9 of these ordinances.

5.0205 Witness Fees and Mileage of Peace Officers

Peace officers of the City shall be entitled to be paid the witness fees and mileage expenses allowed by law for other witnesses while off duty when such officers are subpoenaed to testify in actions involving the City. Said peace officers shall submit vouchers for the above payment in accordance with Section 1.0704 and 1.0705 of these ordinances.

ARTICLE 3 - Miscellaneous

5.0301 False Alarms - Interference

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

5.0302 Right of Way

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



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CHAPTER SIX

ZONING - LAND USE PLANNING

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CHAPTER SIX

ZONING - LAND USE PLANNING

ARTICLE 1 - Planning and Zoning Commission

6.0101 Zoning Commission

There is hereby created a zoning commission consisting of 5 members to be appointed by the governing body of the City which shall recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Mayor, and city attorney shall be ex-officio members thereof. If the City exercises extraterritorial zoning authority pursuant to North Dakota Century Code § 40-47-01.1, the zoning commission must include 1 members residing within extraterritorial limits of the City. Such commission shall make a preliminary report and hold public hearings before making its final report. Such commission shall also hold hearings and make reports and recommendations as to the supplements and changes in boundaries and regulations. (Source: North Dakota Century Code § 40-47-06)

ARTICLE 2 - Definitions

6.0201 Definitions

For the purpose of this chapter the following words and phrases shall have the meanings herein given:

- a) "Accessory Use or Building" is a subordinate use or building customarily incident to and located on the same lot with the main use or building.
- b) "Alley" is a public or private thoroughfare which affords only a secondary means of access to property abutting thereon.
- c) "Alteration" as applied to a building or structure, is a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
- d) "Building" is a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property, including tents, lunch wagons, dining cars, camp cars, trailers and other roofed structure on wheels or other supports used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes. For the purposes of this definition "roof" shall include an awning or other similar covering, whether or not permanent in nature.
- e) "Building Line" is the line between which and the street line or lot line no building or other structure or portion thereof, except as provided in this Code, may be erected above the grade level. The building line is considered a vertical surface intersection with the ground on such line.



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- f) “Building Height” is the vertical distance from the grade to the highest point of the coping of a flat roof or the deck line of a mansard roof or the mean height level between eaves and ridge for gable, hip and gambrel roofs.
- g) “Dwelling” is a building designed or used as the living quarters for one or more families.
- h) “Dwelling House” is a detached house designed to be occupied exclusively as the residence of not more than two families each living as an independent housekeeping unit.
- i) “Dwelling Unit” is one or more rooms providing complete living facilities for one family, including equipment for cooking, or provisions for the same, and including room or rooms for living, sleeping and eating.
- j) “Dwelling, Multi-Family” is a dwelling or group of dwellings on one plot containing separate living units for three or more families, but which have joint services or facilities for both.
- k) “Family” is a single individual, doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage or other domestic bond as distinguished from a group occupying a board house, lodging house, club, fraternity or hotel.
- l) “Garage, Private” is a building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.
- m) “Lot” is a parcel of land occupied or capable of being occupied by one building, and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this chapter.
- n) “Non-conforming Use” is a building, structure or use of land existing at the time of the enactment of this chapter and which does not conform to the regulations of the district in which it is located.
- o) “Setback Building Line” is a building line back of the street line.
- p) “Structure” is anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards, but not including fences or walls used as fences.
- q) “Use” is the purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.
- r) “Yard” is an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.



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s) “Yard, Front” is an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot.

t) “Yard, Rear” is an open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

u) “Yard, Side” is an open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a lot line.

ARTICLE 3 - Establishment of Districts

6.0301 Use and Area Districts Established

For the purposes of this chapter, the City is hereby divided into use districts and area districts as provided hereafter.

6.0302 Maps and Boundaries

The boundaries of these districts are hereby established as shown on a map entitled “The Zoning Map of the City of Larimore” which is on file in the office of the City Auditor. This map, with all explanatory matter thereon, is hereby made a part of this chapter.

6.0303 Annexed Property

Property which has not been included within a district and which has become a part of the City by annexation shall automatically be classified as lying and being in the R A residential district until such classification has been changed by an amendment to the zoning ordinances as prescribed by law.

ARTICLE 4 - Application of Regulations

6.0401 Application of Regulations

1. Except as provided in this chapter:

a) Conformity of Buildings and Land. No building, structure or premises shall be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified for the district, as shown on the official map, in which it is located.

b) Conformity of Buildings. No building, structure or premises shall be erected, altered or used so as to produce smaller yards or less unoccupied area, and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.



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c) Conformity of Open Spaces. No yard, court or open space, or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling under this chapter.

6.0402 Extraterritorial Zoning

Pursuant to North Dakota Century Code § 40-47-01.1, the City may extend the application of the City's zoning regulations to any quarter quarter section of unincorporated territory if a majority of the quarter quarter section is located within one miles of the corporate limits of the City.

ARTICLE 5 - Non-Conforming Uses

6.0501 Non-Conforming Uses

The lawful use of any building, structure or land existing at the time of the enactment of this chapter may be continued, although such use does not conform with the provisions of this chapter, provided the following conditions are met:

a) Alterations. A non-conforming building or structure may be altered, improved or reconstructed provided such work is not to an extent exceeding in aggregate cost twenty-five percent (25%) of the assessed value of the building or structure, unless the building or structure is changed to a conforming use.

b) Extension. A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building or structure which existed prior to the enactment of this ordinance shall not be deemed the extension of such non-conforming use.

c) Changes. No non-conforming building, structure or use shall be changed to another non-conforming use.

d) Abandonment. A non-conforming use of a building or premises which has been abandoned shall not thereafter be returned to such non-conforming use.

e) Unlawful Use Not Authorized. Nothing in this chapter shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this chapter.

f) Certificate of Non-Conforming Use. Upon the effective date of this chapter, the zoning administrator shall issue a "Certificate of Non-Conforming Use" to all owners of property, the use of which does not conform to the provisions of the use zone in which the property is located.

(1) In accordance with the provisions of this section no use of land, buildings or structures shall be made other than that specified on the "Certificate of Non-Conforming Use," unless said use shall be in conformity with the provisions of the use zone in which the property is located.



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(2) A copy of each “Certificate of Non-Conforming Use” shall be filed with the office of the zoning administrator. No permit or license shall be issued to any property for which a “Certificate of Non-Conforming Use” has been issued until said permit or license has been approved by the zoning commission.

g) District Changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any non-conforming uses existing therein.

ARTICLE 6 – CONDITIONAL USE PERMITS

6.0601 Conditional Use Permits

Applications for approval of a conditional use shall be submitted to the Planning and Zoning Commission.

The Planning and Zoning Commission shall hold a public hearing before action is taken on the application for approval of a conditionally permitted use. Notice of said hearing shall be published in the official newspaper of the City at least one week prior to the hearing and mailed to residents living within 200 feet of the proposed conditionally permitted use.

No application for a conditional use shall be granted unless the Planning and Zoning Commission shall find all of the following conditions are present:

- a) The conditional use will not be detrimental to or endanger the public health, safety or general welfare.
- b) The existing permitted uses in the neighborhood will not, in any manner, be substantially impaired or diminished by the establishment of the conditional use.
- c) The conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- d) Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- e) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- f) The conditional use shall conform to all other applicable regulations of the district in which it is located.
- g) Based upon the Planning and Zoning Commission’s findings of the above listed conditions, the City Council shall grant or deny a conditional use permit. If the City Council does not adhere to the Planning and Zoning recommendations, then the City Council needs a two-thirds (2/3) supermajority to override the Planning and Zoning Commission’s recommendations.



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ARTICLE 7 - Use Districts

6.0701 Use Districts

1. The City is hereby divided into the following Use Districts to be known as:
 - a) R-1 - Residential Districts, Single-Family
 - b) R-2 - Residential Districts, Two-Family
 - c) R-3 - Residential Districts, Multi-Family
 - d) R A - Agricultural Residence
 - e) R M H - Residential Manufactured Home Districts
 - f) C - Commercial Districts
 - g) I - Industrial Districts

6.0702 R-1 - Residential Districts - Single Family

1. In a single-family district, the following buildings and uses are permitted:
 - a) Dwelling houses occupied by not more than one family.
 - b) Publicly owned and operated buildings.
 - c) Churches and parish houses.
 - d) Hospitals.
 - e) Nursing and Rest Homes.
 - f) Homes for the Aged.
 - g) Playgrounds and Parks.
 - h) Cemeteries.

6.0703 R-2 - Residential Districts - Two-Family

1. In a two-family district, the following buildings and uses are permitted:
 - a) Dwelling houses each occupied by not more than two families. Each family shall not be allowed more than two roomers or boarders per family.



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- b) All other uses permitted in a single-family district.

6.0704 R-3 - Residential Districts - Multi-Family

- 1. In a multi-family district the following buildings and uses are permitted:
 - a) All uses permitted and as regulated in a two-family district.
 - b) Multi-family dwellings.
 - c) Private clubs.
 - d) Lodges or social buildings.
 - e) Hotels, motels, tourist camps.

6.0705 R-A Agricultural Residence Districts

- 1. In an Agricultural Residence District the following buildings and uses are permitted:
 - a) Dwelling houses occupied by not more than one family.
 - b) Publicly owned and operated buildings.
 - c) Churches and parish houses.
 - d) Hospitals.
 - e) Nursing and Rest Homes.
 - f) Homes for the Aged.
 - g) Playgrounds and Parks.
 - h) Cemeteries.
 - i) Agricultural, farming and truck gardening, animal or poultry farms, except kennels and concentrated animal feeding operations that are operated for commercial purposes.

6.0706 Accessory Uses in Residential Districts

- 1. The following accessory uses and buildings are permitted in residential districts:
 - a) Professional office for a physician, clergyman, architect, engineer, attorney or similar professional person residing in such main building.



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b) Home Occupation. Offices of professional persons and home occupations when such use does not exceed one-third (1/3) of the main floor space of the dwelling, and is conducted in the principal building, not in an accessory building, and does not employ any persons not residing on the premises.

c) Agricultural uses, gardens, beehives.

d) Private garages.

e) Any other accessory use customarily incident to a use authorized in a residential district.

6.0707 Commercial District

1. The following buildings and uses are permitted in the commercial district:
 - a) Retail stores and shops.
 - b) Service establishments.
 - c) Business and professional offices.
 - d) Eating establishments.
 - e) Funeral homes and mortuaries.
 - f) Transportation services.
 - g) Amusements and recreation.
 - h) Wholesale businesses.
 - i) Storage buildings and warehouses.
 - j) Any other building or use similar to the uses herein listed in the type of services or goods sold.
 - k) Any accessory use customarily incident to a use herein listed.

6.0708 I - Industrial

1. The following buildings and uses are permitted in the industrial district:
 - a) The compounding, assembly, treatment, manufacture, processing and packing of articles or materials shall be permitted in the industrial district.
 - b) All uses permitted in a Commercial District.
2. Uses prohibited. No dwelling or dwelling unit.



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3. However, any property located in the industrial district that is currently being used for a purpose allowed in a residential district can continue said use. This includes dwelling units that are required to be repaired or rebuilt.

ARTICLE 8 - Area Districts

6.0801 Area Regulations - Residential Districts

1. In any use district no residence building shall hereafter be erected, established or altered on a lot having a lot area of not less than the square feet required as follows:

- a) R A – not less than 7,000 sq. ft.
- b) One-family - not less than 7,000 sq. ft.
- c) Two-family - not less than 11,000 sq. ft.
- d) Multi-family - not less than 12,000 sq. ft.

2. In any use district no residence building shall hereafter be erected, established or altered on a lot having a minimum lot width less than the following lot widths:

- a) R A - not less than 50 feet of lot width measured along the front building line.
- b) One-family - not less than 50 feet of lot width measured along the front building line.
- c) Two-family - not less than 60 feet of lot width measured along the front building line.
- d) Multi-family - not less than 60 feet of lot width measured along the front building line.

3. In any use district no residence building shall hereafter have the following minimum floor area ratios:

- a) R A - not over 40% of the lot area.
- b) One-family - not over 40% of the lot area.
- c) Two-family - not over 40% of the lot area.
- d) Multi-family - not over 40% of the lot area.

6.0802 Building Height Limit

1. In any use district no building shall hereafter be erected or structurally altered to exceed the following height limitation:



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- a) One and two family units - two and one-half (2 1/2) stories, but not to exceed thirty five (35) feet in height.
- b) Multi-family and commercial district - four (4) stories but not to exceed fifty (50) feet.
- c) Industrial district - four (4) stories or fifty (50) feet except such limitation does not apply to buildings for grain storage.

ARTICLE 9 - Yard Regulations

6.0901 Yard Regulations

- 1. In **one-family** districts there shall be:
 - a) A front yard of not less than 25 feet.
 - b) A side yard on each side of not less than 5 feet.
 - c) A rear yard of not less than 25 feet.
- 2. In **two-family** districts there shall be:
 - a) A front yard of not less than 25 feet.
 - b) A side yard on each side of not less than 5 feet.
 - c) A rear yard of not less than 25 feet.
- 3. In **multi-family** districts there shall be:
 - a) A front yard of not less than 25 feet.
 - b) A side yard on each side of not less than 5 feet.
 - c) A rear yard of not less than 25 feet.
- 4. In **R A** districts there shall be:
 - a) A front yard of not less than 25 feet.
 - b) A side yard on each side of not less than 5 feet.
 - c) A rear yard of not less than 25 feet.



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ARTICLE 10 - Enforcement

6.1001 Administrative Official

1. Except as otherwise provided herein the City's Building Inspector shall administer and enforce the provisions of this chapter, including the receiving of applications, the inspection of premises and the issuing of building permits. No building permit or certificate of occupancy shall be issued except where the provisions of this chapter have been met.

2. Building Permit Required. No building or structure shall be erected, added to or structurally altered until a permit therefore has been issued by the City's building inspector. All applications for such permits shall be in accordance with the requirements herein and, unless upon written order of the Board of Adjustment, no such building permit or certificate of occupancy, shall be issued for any building where said construction, addition or alteration or use thereof would be in violation of any of the provisions of this chapter.

3. Matter Accompanying Application. There shall be submitted with all applications for building permits two copies of a layout or plot drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this ordinance.

4. Payment of Fee. One copy of such layout or plot plan shall be returned when approved by the zoning administrator together with such permit to the applicant upon the payment of a fee as stipulated in Larimore Ordinance Chapter 15, paragraph 15.0109.

5. Certificates of Occupancy Applicable to Residential Rental Properties:

a) No land shall be occupied or used for a residential rental property and no building hereafter erected, altered or extended for a residential rental property shall be used or changed in use until a certificate of occupancy shall have been issued by the City's building inspector, stating that the building or proposed use thereof complies with the provisions of this chapter.

b) No non-conforming use shall be maintained, renewed, changed or extended for a residential rental property without a certificate of occupancy having first been issued by the City's building inspector therefore.

c) All certificates of occupancy for a residential rental property shall be applied for coincident with the application for a building permit. Said certificate shall be issued within 15 business days after the erection or alteration shall have been completed.

d) The City's building inspector shall maintain a record of all certificates and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected.

e) No permit for excavation for, or the erection or alteration of or repairs to any building for a residential rental property shall be issued until an application has been made for the certificate of occupancy.



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f) Under such rules and regulations as may be established by the Board of Adjustment and filed with the City's building inspector, a temporary certificate of occupancy for not more than thirty (30) days for a part of a building may be issued by the City's building inspector.

Revised 04.03.17

ARTICLE 11 - Larimore Municipal Airport Zoning

6.1101 Establishment of Zoning

1. This Article is adopted pursuant to the authority conferred by North Dakota State Century Code Chapter 2-04. It is hereby found that an obstruction has the potential for endangering the lives and property users of the Larimore City Municipal Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Larimore City Municipal Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Larimore City Municipal Airport and the public investment therein. Accordingly, it is declared:

- a) That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Larimore City Municipal Airport;
- b) That it is necessary and in the best interest of the public health, safety, and general welfare of the City of Larimore City that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
- c) That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

2. It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

6.1102 Definitions

1. As used in this Article, unless the context otherwise requires:

- a) **AIRPORT** - Larimore City Municipal Airport.
- b) **AIRPORT ELEVATION** - The highest point of an airport's usable landing area measured in feet above mean sea level.
- c) **APPROACH SURFACE** - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in 6.1103 of this Article. In plan the perimeter of the approach surface coincides with the perimeter of the approach area.
- d) **APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL ZONES** - These zones are set forth in S of this Article.
- e) **BOARD OF ADJUSTMENT** - A Board consisting of the Mayor and City Council.
- f) **CONICAL SURFACE** - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.



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- g) **HAZARD TO AIR NAVIGATION** - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- h) **HEIGHT** - For the purpose of determining the height limits in all zones set forth in this Article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- i) **HORIZONTAL SURFACE** - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
- j) **NONCONFORMING USE** - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Article or an amendment thereto.
- k) **NONPRECISION INSTRUMENT RUNWAY** - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
- l) **OBSTRUCTION** - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in 6.1103 of this Article.
- m) **PERSON** - An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
- n) **PRIMARY SURFACE** - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has not specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in 6.1102 of this Article. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
- o) **RUNWAY** - A defined area on an airport prepared for landing and takeoff of aircraft along its length.
- p) **STRUCTURE** - An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
- q) **TRANSITIONAL SURFACES** - These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.
- r) **TREE** - Any object of natural growth.
- s) **UTILITY RUNWAY** - A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
- t) **VISUAL RUNWAY** - A runway intended solely for the operation of aircraft using visual approach procedures.

6.1103 Airport Zones

- a) There are hereby created and established Airport Zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces



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as they apply to the Larimore City Municipal Airport. An area located in more than one (1) of the following zones is considered to be the only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- b) Utility Runway Nonprecision Instrument Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- c) Transitional Zones - Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface and extending to where they intersect the conical surface.
- d) Horizontal Zone - Established at 150 feet above the airport elevation.
- e) Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- f) Excepted Height Limitations - Outside the approach zone and transitional zone, nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

6.1104 Airport Zone Height Limitation

1. Except as otherwise provided in this Article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Article to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

- a) Utility Runway Nonprecision Instrument Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- b) Transitional Zones - Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface and extending to where they intersect the conical surface.
- c) Horizontal Zone - Established at 150 feet above the airport elevation.



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d) Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

e) Excepted Height Limitations - Outside the approach zone and transitional zone, nothing in this Article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

6.1105 Use Restrictions

Notwithstanding any other provisions of this Article, no use may be made of land or water within any zone established by this Article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

6.1106 Nonconforming Uses

1. Regulations Not Retroactive - The regulations prescribed by this Article shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Article, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which has begun prior to the effective date of this Article, and is diligently prosecuted.

2. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Larimore City Building Inspector to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the owner.

6.1107 Permits

1. Future Uses - Except as specifically provided in a, b, and c hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative the permit shall be granted. No permit for a use inconsistent with the provisions of this Article shall be granted unless a variance has been approved.

a) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than one hundred feet of vertical height above the ground, except when because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.



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b) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than one hundred feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

c) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than one hundred feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

d) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Article except as set forth in 6.0103.

2. Existing Uses - No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Article or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

3. Nonconforming Uses Abandoned or Destroyed - Whenever the Larimore City Supervisor/Superintendent determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

4. Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Article, may apply to the Board of Adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Article. Additionally, no application for variance to the requirements of this Article may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Larimore City Airport Authority for advice as to the aeronautical effects of the variance. If the Larimore City Airport Authority does not respond to the application within fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

5. Obstruction Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Larimore City Airport Authority at its own expense, to install, operate, and maintain the necessary markings and lights.



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ARTICLE 12 - Manufactured Home Districts

6.1201 Definitions

1. In this chapter, unless the context or subject matter otherwise requires:
 - a) "Campground" means any parcel of land containing three or more lots intended for occupancy by travel trailers or tents.
 - b) "Lot" means any piece of land of required size intended for occupancy by a manufactured home, travel trailer, or tent.
 - c) A "Manufactured Home" (formerly known as a mobile home) is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections on a permanent chassis.
 - d) "Manufactured Home Park" means any parcel of land containing three or more lots intended for occupancy by manufactured homes.
 - e) "Person" means any individual, firm, trust, partnership, public or private association, corporation, or limited liability company.
 - f) "Trailer park" means any parcel of land containing three or more lots intended for occupancy by travel trailers.
 - g) "Travel trailer" means any portable unit designed to be used as a temporary dwelling for travel or recreational purposes. The term travel trailer includes the following:
 - (1) An independent travel trailer, which is a travel trailer containing toilet and lavatory facilities.
 - (2) A dependent travel trailer, which is a travel trailer containing either toilet or lavatory facilities or having neither facility.

6.1202 Permitted Uses

1. The following buildings and uses are permitted in the Manufactured Home Districts:
 - a) Independent manufactured home located in a well-drained area,
 - b) Parks and playgrounds.
 - c) Manufactured home service buildings such as coin operated washers and dryers, for use of residents of the Manufactured Home Park,
 - d) Office for manager of the Manufactured Home Park,



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e) Storage building used for storage of vehicles used to tow manufactured homes.

f) Storage buildings for blocks, skirts, pipe and other material and equipment required to set up a manufactured home.

g) Accessory uses and buildings including swimming pools, bath houses, patios, etc., for use of manufactured home residents.

6.1203 Manufactured Home Park Requirements

1. Manufactured Home Parks shall contain a minimum of five (5) acres of land and a maximum of eight (8) manufactured homes per gross acres.

2. A minimum of ten (10) percent of the gross site area shall be devoted to an open space and recreational facilities.

3. Each manufactured home space shall be at least 40 feet wide and an area of 5,000 square feet.

4. There shall be a minimum of fifteen (15) feet between structures.

5. No building shall exceed 35 feet in height.

6. Underground utility hookups shall be provided to each lot in the park. These utilities shall include water, sewer, electricity, telephone and either gas or fuel oil for heating purposes.

7. Off-street parking of one parking space for each manufactured home unit shall be provided,

8. All lots in the park shall be accessible at all times to emergency vehicles.

9. Each manufactured home shall have a setback of a minimum of ten (10) feet within the park and twenty-five (25) feet setback from other public roads adjoining the Manufactured Home Park.

10. Where the park is served by private streets, those streets shall conform to the following:

a) Where parking is to be allowed on both sides of the street, a driving surface of thirty-four (34) feet within a forty (40) feet right-of-way shall be provided,

b) Where parking is prohibited on both sides of the street, a driving surface of twenty-four (24) feet within a thirty (30) feet right-of-way shall be provided.

c) Each manufactured home space shall be provided with garbage stands and cans.

11. No person shall move, or allow to be moved, into a manufactured home park any travel trailers or tents, to be used for a temporary or permanent dwelling



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12. All regulations of North Dakota Regulatory Agencies and Departments relating to manufactured home shall be complied with.

ARTICLE 13 - Board of Adjustment

6.1301 Creation of Board

1. Creation, Appointment and Organization. When determined to be necessary, a Board of Adjustment, to be appointed by the City governing body, will be created. Until deemed a necessity, the City Zoning Commission shall retain the powers and duties of the Board of Adjustments. Once created, said Board shall consist of five members for three-year terms. The Board shall elect a chairman from its membership, shall appoint a secretary and shall prescribe rules for the conduct of its affairs. (Source: North Dakota Century Code § 40-47-07)

2. Powers and Duties. The Board of Adjustment shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows:

a) Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

b) Variances. To vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. In granting any variance, the Board of Adjustment shall prescribe any conditions that it deems to be necessary or desirable. However, no variance in the strict application of any provision of this chapter shall be granted by the Board of Adjustment unless it finds:

(1) That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.

(2) That, for reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the board is the minimum variance that will accomplish this purpose.

(3) That the granting of this variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of adjoining buildings and those in the vicinity, the board, in determining its finding, shall take into account the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.



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3. Procedure. The Board of Adjustment shall act in strict accordance with the procedure specified by law and by this chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Every decision of the Board of Adjustment shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the City auditor.

4. Notice and Hearing. No action of the Board shall be taken on any case until after due notice has been given to the parties and public hearing has been held.

6.1302 Amendments

The governing body may, from time to time, amend this article by supplementing, changing, modifying or repealing any of the regulations, restrictions or other provisions thereof or of the district map or the districts on said map or of the boundaries of such district. A proposed amendment may be initiated by the said Board upon its own motion, or upon receipt of a request therefore from the City zoning commission or upon receipt of a petition therefore from any interested person or persons or their agents.

6.1303 Report by City Zoning Commission - Public Hearing.

The governing body shall require a report from the City zoning commission on a proposed amendment before taking final action thereon. The City zoning commission shall thereupon make a tentative report and hold a public hearing thereon with notice the same required for a public hearing by the governing body, before submitting its final report. Such final report shall be submitted within ninety (90) days after the time of referral of the proposed amendments to the City zoning commission unless the governing body is agreeable to an extension of time.

6.1304 Action by Governing Body - Public Hearing.

After the receipt of the required final report on any amendment from the City zoning commission or in the event of the failure of the City zoning commission to so report within ninety (90) days following the time of referral of the proposed amendment to the City zoning commission, the governing body shall hold a public hearing, after which the proposed amendment may be passed. Not less than fifteen (15) days' notice of the time and place of holding such public hearing shall first be published in the official newspaper. A hearing shall be granted to any person interested, and the time and place specified.

6.1305 Vote after Protest.

1. If a protest against a change, supplement, modification, amendment or repeal is filed and signed by owners of twenty percent (20%) or more:

a) Of the area of the lots included in such proposed change; or

b) Of those immediately adjacent in the rear thereof extending 150 feet therefrom; or



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c) Of those directly opposite thereto extending 150 feet from the street frontage of such opposite lots.

2. The amendment shall not become effective except by the favorable vote of three-fourth (3/4) of all the members of the governing body.

6.1306 Enforcement

1. The erection, construction, reconstruction, alteration, repair, conversion or maintenance of any building or structure or the use of any building, structure or land in violation of this article or of any regulation, order, requirement, decision or determination made under authority conferred by this article, shall constitute the maintenance of a public nuisance and any appropriate action or proceeding may be instituted by the City, through any administrative officials, department, commission, or board charged with the enforcement of this article:

a) To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;

b) To restrain, correct or abate such violation;

c) To prevent the occupancy of the building, structure or land; or

d) To prevent any illegal act, conduct, business or use in or about such premises.

2. A violation of any provision of this article or a violation of or refusal or failure to comply with any regulation, order, requirement, decision or determination made under authority conferred by this article shall be punishable as an infraction. Each day the violation continues constitutes a separate violation. (See North Dakota Century Code § 12.1-32-01)



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CHAPTER SEVEN

WATER AND SEWER

ARTICLE 1 - Utility Established

7.0101 Water and Sewer Utility Created

The waterworks and sewerage facilities now owned by this City or hereafter acquired, were and are hereby declared to be and to constitute a public utility of the City, to be held, operated, maintained, improved, extended and administered as a single undertaking to be known as the "water and sewer utility." The properties of said utility shall include all plants, systems, works, instrumentalities, equipment, materials, supplies, lands, easements, rights in land, water rights, contract rights, franchises, dams, reservoirs, sewage disposal plants, intercepting sewer, trunk connection, 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 obtaining of a water supply and the conservation, treatment and disposal of water for public and private uses and/or useful in connection with the collection, treatment and disposal of sewage, waste and storm waters.

7.0102 Scope of Utility

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

7.0103 Service Charges - Use of

The City Water and Sewer Utility 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 body to pay or contribute to the cost of any other City functions, subject to the limitations now or hereafter prescribed by law.



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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.

7.0104 Policy on Improvements - Extensions

1. 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:

- a) 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.
- b) 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.
- c) 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.
- d) 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.
- e) 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.



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f) 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.

g) 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.

7.0105 Utility Fund - Separate Accounts

1. 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:

a) 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.

b) Principal and Interest Account. The Principal and Interest Account of the Fund, created by resolution adopted _____, _____, shall continue to be maintained as provided in that resolution until the payment in full of the improvement warrants issued against said fund.

c) 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



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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 principle 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.

d) 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.

e) 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



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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 governing body, 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.

f) 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.

g) 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 7.0106 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.

7.0106 Provisions for Financing Capital Improvements

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

a) 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.

b) 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 7.0105(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

c) 125% of the net revenues actually received during such year.



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d) 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.

e) 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.

f) 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 7.0105 hereof.

g) 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.

7.0107 Agreements with Bond and Warrant Purchasers

1. 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:

a) 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.



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b) 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.

c) 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 7.0105 hereof, and will revise such schedules in such manner and as often as needed to perform this covenant.

d) 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.

e) 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 7.0105 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 thereof of any information which any such bond or warrant holder may request, upon payment of a reasonable fee therefore.

f) 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.

g) 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.

h) 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 or 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.

i) 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



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resolutions which provide security for the holders of bonds issued hereunder are acknowledged to be a part of the City's contract with the holders of such obligations; provided that nothing herein shall be deemed to preclude the City from modifying the policies set forth in Section 7.0104 hereof with reference to any improvements constructed and financed after the effective date of such modification.

j) 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 through 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 Water Superintendent

A water superintendent shall be appointed by the governing body. It is a part time employee and they may also be a City employee in some other capacity, however, the only services respecting the water system shall be the operating charge of the system. It shall be the duty of the water superintendent to exercise control and management of the operation of the waterworks system. The water 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 waterworks system. All such employees shall be subject to the water superintendent's orders and directions, and the water superintendent shall be responsible for the acts of the employees. The water superintendent shall have power and authority to purchase such materials, supplies and repairs for the waterworks system, with the approval of the governing body of the City, as shall be reasonably necessary for the operation of the system. The water 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 superintendent shall at all times be subject to the supervision and direction of the governing body. The water superintendent shall perform such other duties and have such other powers and authority as are hereinafter provided for. The City Superintendent or Supervisor will serve as the Water Superintendent unless otherwise specified by the Governing Body.



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7.0203 Same: Reports

The City Superintendent or Supervisor shall make monthly reports to the governing body concerning the operation of the utilities.

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 7.0206, shall apply for a connection on a form provided by the City. Such application shall state an exact description of the premises to be served, and the uses, both general and special, to which the water is to be put, the nature of sewage to be discharged, and the estimated amount of water to be used for a quarter-annual period. Such application shall be filed with the City Auditor, and the applicant shall thereupon pay to the City auditor, as a connection charge, the sum of Five hundred dollars (\$500.00) for a residential building, commercial building or multiple dwelling.

7.0205 Water Service – Construction of – Maintenance of

1. The cost of original installation of all plumbing between the main and any service devices maintained by the consumer as well as all extensions made to such plumbing, shall be borne entirely by the consumer. Such plumbing and services as well as the meters shall at all reasonable times be subject to inspection by the City Building Inspector or 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.

2. The original installation of all plumbing between the main and any service devices maintained by the consumer as well as all extensions made to such plumbing, shall be constructed by licensed plumbers at the owner's expense. Plumbing installations 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.

7.0206 Water Service - To Property Not Previously Assessed

No permit shall be issued for the making of any connection between any water or sewer lines, and any property which has not previously been benefited by existing water and /or sewer lines, or whenever the owners of such property have not been assessed for such water or sewer facilities, unless and until such person shall have paid for or made a written agreement with the City to pay in monthly installments pursuant to a schedule of payments that must be determined by the governing body. Such amount shall be based upon the area served and benefit resulting to the property involved. Within thirty days from the date of receipt of such application, the governing body shall determine the amount of money required to be paid before such connection shall be made and shall advise the applicant property owner of such determination. All such moneys paid and received pursuant to the provisions of this section shall be placed in the water and sewer utility fund and shall be expended in accordance with the purposes of such fund.

7.0207 Subsequent Connection to Premises

Any party, other than the original applicant, desiring service for premises where a connection has been made, shall make a 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 7.0206.



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7.0208 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 7.0221.

7.0209 Service Outside City Limits - Prohibited - Exception

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

7.0210 Service in Un-platted 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.

7.0211 Water Service – Meter Required – Location, Seals

Meters shall be firmly and substantially set in a workmanlike manner in a convenient and readily accessible location for reading and inspection. No tap or withdrawal of water by the consumer for any purpose shall be permitted ahead of the City meter, or between the meter and the main line. The consumer shall not, after original installation of a meter, make any alternations or additions which will interfere with the repair, maintenance, reading, or operation of the meter.

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 utility superintendent on or before the fifteenth day of the month next succeeding such defective service, or be deemed waived by the claimant. It shall be the duty of the utility superintendent to investigate the facts alleged in each claim and determine the amount, if any, which should be refunded to a claimant by reason of defective service and report such determination to the governing body. If a claim is approved by that body, such amount shall be allowed as credit on the following bill or paid as other claims, but no claim shall be made against the City for any fire or any injuries to the person or property of any consumer of water or sewer service under the provisions hereof.



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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

1. 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.

a) 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.

b) 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.

c) 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.

d) Shutting Off or Turning On Water - Charge for. The water department shall charge a fee of fifty dollars (\$50.00) each for the shutting off of services or the turning on services. In addition to the fee of fifty dollars (\$50.00), the water department may charge an hourly fee of twenty five dollars (\$25.00) for the shutting off or turning on of water if the ground is frozen, the shutoff is not reasonably accessible, in times of inclement weather or if the service is being requested after hours. With a maximum additional fee of one hundred dollars (\$100.00).

e) 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.

f) Fire Hydrants - Who May Open. No person except City employees in the performance of their official duties shall open or cause to be opened any fire hydrant without the written permission of the water superintendent.

7.0216 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



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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

In installing water service, all taps shall be driven, street excavations made, corporation cocks inserted, pipes installed from main to curb, and the curb cock installed in an iron box to which the service is to be connected, by the municipality's employees or agents of the City's Water and Sewer Department only. All service pipes connected with the water system shall be laid 8 feet below the established grades or as low as the street mains. All sewer service pipes shall be of a material approved by the water 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. The curb cock placement shall be the responsibility of the City's Water and Sewer Department. All curb cocks shall remain the property of the City. Curb cocks 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 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 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.

7.0221 Rates and Charges

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

7.0222 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



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tenant may be. Owners of premises where water or sewer service is supplied shall notify the water or sewer department or the City Auditor in case any tenant moves from said premises, prior to such moving. On request of the owner or owners, the City Auditor will bill or cause to be billed the occupant or tenant for such charges, but if such charges are not paid when due by the occupant or tenant, the owner or owners shall be responsible for such charges and they shall be assessed to the property served. It shall be the duty of the City Auditor to certify to the county auditor such unpaid water or service charges that are unpaid in the same manner and at the same time as other assessments are certified, and they shall be assessed and collected in the same manner.

7.0223 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.

7.0224 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.

7.0225 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.

7.0226 Authorization to Purchase Water at Wholesale by the City of Larimore, North Dakota

WHEREAS, the City of Larimore owns a system for the distribution of water for fire protection and other public purposes and for selling water to its inhabitants and industries.

WHEREAS, it has been determined by the governing body of the City of Larimore that its water system and water supply may become inadequate and/or unsuitable due to increased maintenance, costs and regulatory requirements.

WHEREAS, the governing body of the City of Larimore has determined that the future cost and expense to maintain and/or make its water system and water supply adequate, suitable and/or comply with future regulatory requirements will substantially exceed the benefits derived therefrom and would place an undue financial burden upon the City of Larimore.

WHEREAS, the City of Larimore, pursuant to N.D.C.C. § 40-33-16, may contract to purchase water at wholesale for fire protection and other public purposes and for selling water to its inhabitants and industries from any person, firm, public or private corporation, or limited liability company able and willing to furnish the same, upon such terms and during such period, not exceeding forty years.



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WHEREAS, the East Central Regional Water District (hereinafter referred to as "Water District"), has submitted a contract for the sale of water at wholesale to the City of Larimore.

WHEREAS, the governing body of the City of Larimore has determined that the Water District is able and willing to furnish water at wholesale to the City of Larimore.

WHEREAS, the governing body of the City of Larimore desires to enter into a contract for the purchase of water at wholesale from the Water District following a vote of the eligible voters of the City of Larimore.

BE IT ORDAINED BY THE CITY COUNCIL OF THE MUNICIPALITY OF LARIMORE, NORTH DAKOTA:

That a contract by the City of Larimore to purchase water at wholesale, for its subsequent distribution for fire protection and other public purposes and for selling water to the inhabitants and industries of the City of Larimore, from the Water District is hereby authorized to be executed on behalf of the City of Larimore by the Mayor and City Auditor.

That this ordinance to authorize a contract to purchase water at wholesale from the Water District, was approved by a majority vote of the qualified electors of the City of Larimore, is conditioned on the receipt of a grant, or other state funding, from the State Water Commission to pay three-quarters of the cost of extending rural water service to the City of Larimore. In the event the City of Larimore fails to receive a grant, or other state funding, from the State Water Commission to pay three-quarters of the cost of extending rural water service to the City of Larimore this ordinance will be of no effect.

Revised 01.07.19

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

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

a) "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.

b) "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.

c) "Building Sewer" means the extension from the building drain to the public sewer or other place



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of disposal, also called house connection.

d) "Combined Sewer" means a sewer intended to receive both wastewater and storm or surface water.

e) "Easement" means an acquired legal right for the specific use of land owned by others.

f) "Floatable Oil" is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

g) "Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

h) "Industrial Wastes" means the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.

i) "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.

j) "May" is permissive (see "shall," Sec. 18).

k) "Person" means any individual, firm, company, association, society, corporation or group.

l) "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} .

m) "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.

n) "Public Sewer" means a common sewer controlled by a governmental agency or public utility.

o) "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.

p) "Sewage" is the spent water of a community. The preferred term is "wastewater," Sec. 24.

q) "Sewer" means a pipe or conduit that carries wastewater or drainage water.

r) "Shall" is mandatory (see "may," Sec. 10).

s) "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



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operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

t) “Storm Drain” (sometimes termed “storm sewer”) means a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

u) “Superintendent” means the City Superintendent or City Supervisor or an authorized deputy, agent or representative.

v) “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.

w) “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.

x) “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.

y) “Wastewater Facilities” means the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

z) “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.”

aa) “Watercourse” means a natural or artificial channel for the passage of water either continuously or intermittently.

bb) “Hearing Board” means that board appointed according to the provisions of Section 7.0309.

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



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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 30 days after date of official notice to do so, provided that said public sewer is within 200 feet (61 meters) of the property line according to the North Dakota plumbing code.

7.0304 Application For

Application for sewer service shall be filed with the City Auditor upon a form to be supplied by the City. The application shall state the name of the applicant and the premises to be served. All applications shall be filed with the City Auditor, and the applicant shall thereupon pay to the City Auditor, as a connection charge, the sum of Five hundred dollars (\$500.00) for a residential building, commercial building or multiple dwelling, and shall be delivered to the governing body for its approval

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 superintendent.

2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent, shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee of twenty five dollars (\$25.00) for a residential or commercial building sewer permit and one hundred dollars (\$100.00) for an industrial building sewer permit shall be paid to the City at the time the application is filed.

3. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

4. All costs and expense incidental to the repair of any sewer connection of the building sewer located outside of the City easement 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 repair of the building sewer.

5. 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.

6. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this ordinance.

7. 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,



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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.

8. 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.

9. 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 City Building Inspector or Superintendent and the North Dakota State Department of Health.

10. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

11. The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the superintendent or his representative.

12. 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.

Revised 10.04.21

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 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 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.



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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 fleshing's, 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 superintendent may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the superintendent are as follows:

a) Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).

b) Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils or product of mineral oil origin.

c) Wastewater from industrial plants containing floatable oils, fat or grease.

d) Any garbage that has not been properly shredded (see Section 7.0302(13)). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

e) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the superintendent for such materials.

f) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the superintendent.

g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

h) Quantities of flow, concentrations or both which constitute a "slug" as defined herein (see Section 7.0302(19)).

i) Waters or wastes containing substances which are not amenable to treatment or reduction by the



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wastewater treatment processes employed, or are amenable to treatment only to such a degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

j) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.

5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 7.0306(4), and which in the judgment of the superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

a) Reject the wastes;

b) Require pretreatment to an acceptable condition for discharge to the public sewers;

c) Require control over the quantities and rates of discharge; and/or

d) Require payment to cover the added costs of handling and treating the wastes not covered by other sewer charges

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

7. Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in 7.0306(4)(c), or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the North Dakota Plumbing Code and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates, and means of disposal which are subject to review by the superintendent. Any removal and having of the collected materials not performed by owner personnel must be performed by currently licensed waste disposal firms.

8. 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.

9. When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structures, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the superintendent. The structure shall be installed by the owner at his expense and shall be maintained by the owner so as to be safe and accessible at all times.

10. The superintendent may require a use of sewer services to provide information needed to determine



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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. All measurements, test and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis by the superintendent.

11. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

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 superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the community system in accordance with the provisions of this ordinance.

2. The superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes that have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

3. While performing the necessary work on private properties referred to in Section 7.0308(1), the superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by City



City of Larimore Ordinances

employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except such as may be caused by negligence or failure of the company to maintain safe conditions as required in Section 7.0306(8).

4. The superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

7.0309 Hearing Board

1. A hearing board, consisting of three (3) members, may be selected as needed for arbitration of differences between the superintendent and sewer users on matters concerning interpretation and execution of the provisions of this ordinance by the superintendent.

2. If a hearing board is used, one member of the board shall be selected to represent the City, one member shall be selected to represent the sewer user involved in the arbitration and the third member shall be acceptable to both parties and shall serve as the chairman in the arbitration.

7.0310 Penalties

1. Any person found to be violating any provision of this article 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 Rates

The sewer rates to be charged 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.



City of Larimore Ordinances

7.0402 Charges

1. The Water Department is hereby authorized to add the sewer charges provided for herein to its charge for water services and waste collections and submit the same on a bill in connection with said water service bills. The Water Department shall be authorized to discontinue all utility services if the entire bill shall not be paid, including the bill for sewer charges. In all places where water service is provided the monthly charge set forth shall be added to and collected as a part of the water bill and collected by the Water Department of the City. Said sums shall become delinquent upon the same dates of the water bill upon which the same is charged. If said service charge is not paid when due, the water service of said premises may be shut off in the same manner as provided for water.

2. In all places where water service is not provided the charge above set forth shall be paid to the Water Department of the City upon monthly bills from said Water Departments.

3. If the service charge so established is not paid when due said sum may be recovered by the City, in an action at law against the owner or occupants or both of the property so served and may also be assessed against the premises so served and collected and returned in the same manner as other county and municipal taxes are assessed, certified, and collected and returned.

7.0403 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.

7.0404 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 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



City of Larimore Ordinances

the superintendent or City Building Inspector, whose duty it shall be to enforce all the provisions of this code relating thereto and from time to time to recommend such rules and regulations as may be appropriate for the execution of the same.

7.0503 Plumbing Code - Changes in Existing Installations

The superintendent or building inspector is hereby given authority to order the repair, alteration or removal of any sanitary sewer connection or plumbing, any connection to storm water sewer, which in the superintendent's or building inspector's judgment is so installed or is in such condition as to be unsanitary, or to constitute a public nuisance or menace to health. In case of such repair, alteration or removal, if the plumbing code is not observed and connections not properly executed by the owner or owners thereof, in accordance with the superintendent's or building inspector's directions, the superintendent or building inspector may cause the same to be discontinued from any source of water supply. It shall thereafter be unlawful for any person in any manner to use any such installation, or to supply water thereto, until the same shall have been put in a safe and sanitary condition according to the superintendent's or building inspector'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 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 one thousand dollars (\$1,000.00) for each violation.



City of Larimore Ordinances

APPENDIX 7-1

Resolution Establishing Water Rates and Charges

CITY OF LARIMORE

RESOLUTION WATER RATES AND CHARGES

WHEREAS, the governing body of the City of Larimore, North Dakota [Hereinafter referred to as the "City"] is empowered to establish and modify rates and charges for the use of and for the service supplied by the municipal water and sewer system, pursuant to Municipal Ordinance 14-0206 as revised;

WHEREAS, the governing body has determined that an increase in said water rates and charges is necessary and proper for the effective service supplied to the citizens of the City of Larimore.

NOW THEREFORE, PURSUANT TO ORDINANCE NO. 14-2016 OF THE LARIMORE MUNICIPAL CODE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF LARIMORE, STATE OF NORTH DAKOTA:

That the following rates and charges are hereby established for the use of, and for the service supplied by, the municipal water system based upon the meter readings of the amount of water consumed as follows:


| | |
|-----------------------------|--|
| Rates: | Based on per unit: (no water included) |
| Debt Service fee | \$25.00 per month minimum: |
| Base minimum fee | \$ 2.00 per month minimum |
| Water meter replacement fee | \$ 1.00 per month minimum |
| Thereafter: | \$ 5.00 per 1000 gallons |

The effective date of these rates is January 16, 2013.

That if any multiple residence, or combination business and residence located in the same building, is supplied with water through a single meter, each separate dwelling or apartment and/or business shall be considered as a separate consumer of water and recipient of city-provided services, and shall be billed to the owner or owners as such.

That bills for the rates and charges as herein established by the city shall be sent or delivered to the consumer, and shall be due within 15 days of mailing or delivery. All bills shall be payable at or to the office of the City Auditor, PO Box 766, Larimore, ND 58251.

APPROVED by the City Council and the Mayor of the City of Larimore, State of North Dakota on the 1st day of October 2012.


Dale Trosen, Mayor

ATTEST: 
Debra Matheson, City Auditor

APPENDIX 7-2



City of Larimore Ordinances

Resolution Establishing Sewer Rates and Charges

APPENDIX 7-3.

CITY OF LARIMORE

RESOLUTION SEWER RATES AND CHARGES

WHEREAS, the governing body of the City of Larimore, North Dakota [Hereinafter referred to as the "City"] is empowered to establish and modify rates and charges for the use of and for the service supplied by the municipal water and sewer system, pursuant to Municipal Ordinance 14-0206 as revised;

WHEREAS, the governing body has determined that an increase in said sewer rates and charges is necessary and proper for the effective service supplied to the citizens of the City of Larimore.

NOW THEREFORE, PURSUANT TO ORDINANCE NO. 14-2016 OF THE LARIMORE MUNICIPAL CODE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF LARIMORE, STATE OF NORTH DAKOTA:

That the following rates and charges are hereby established for the use of, and for the service supplied by, the municipal sewer system.


| | |
|-----------------------|---------------------------|
| Based on per unit: | |
| Sewer replacement fee | \$12.50 per month minimum |

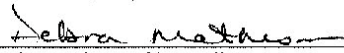
The effective date of these rates is January 16, 2013.

That if any multiple residence, or combination business and residence located in the same building, each separate dwelling or apartment and/or business shall be considered as a separate consumer and recipient of city-provided services, and shall be billed to the owner or owners as such.

That bills for the rates and charges as herein established by the city shall be sent or delivered to the consumer, and shall be due within 15 days of mailing or delivery. All bills shall be payable at or to the office of the City Auditor, PO Box 766, Larimore, ND 58251.

APPROVED by the City Council and the Mayor of the City of Larimore, State of North Dakota on the 1st day of October 2012.


Dale Trosen, Mayor

ATTEST: 
Debra Matheson, City Auditor

APPENDIX 7-3



City of Larimore Ordinances

Resolution Establishing Distribution of Service Charges

CITY OF LARIMORE

RESOLUTION RATES FOR WATER SERVICES

WHEREAS, the governing body of the City of Larimore, North Dakota (Hereinafter referred to as the "CITY") is empowered to establish and modify rates and charges for the use of and for the service supplied by the City.

WHEREAS, the governing body has determined that an increase in said rates and charges is necessary and proper for the effective service supplied to the citizens of the City of Larimore,

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF LARIMORE, STATE OF NORTH DAKOTA.

That the following rates and charges are hereby established for the use of, and for the service supplied by the City as follows:


73% of \$10.00 monthly fee goes to Equipment Fund
11% of \$10.00 monthly fee goes to Sewer Maintenance Fund
11% of \$10.00 monthly fee goes to Spraying (mosquito) Fund
5% of \$10.00 monthly fee goes to Well Fund

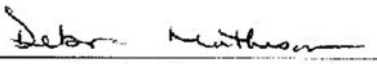
These rates will begin with the billing cycle that includes the service dates of 01/10/13 and 02/10/13.

That if any multiple residence, or combination business and residence located in the same building, is supplied with water through a single meter, each separate dwelling or apartment and/or business shall be considered as a separate consumer of water and recipient of city-provided services, and shall be billed to the owner or owners as such.

That bills for the rates and charges as herein established by the city shall be sent or delivered to the consumer, and shall be due within fifteen (15) days of mailing or delivery. All bills shall be payable at or to the office of the City Auditor, Box 766, Larimore, North Dakota 58251.

APPROVED by the City Council and Mayor of the City of Larimore, State of North Dakota on the 1st day of October 2012.


Dale Trosen, Mayor

ATTEST: 
Debra Matheson, City Auditor



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City of Larimore Ordinances

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City of Larimore Ordinances

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.



City of Larimore Ordinances

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

1. 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.

2. 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:

- a) 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.
- b) The willful making of any false statement as to a material fact in the application for license.
- c) Permitting any disorderly or immoral practices upon the premises where the licensee is licensed to carry on the business or trade.
- d) The death of a licensee.
- e) When the licensee ceases business at the location licensed.
- f) When the licensee ceases to be a legal and bona fide citizen of the State of North Dakota.
- g) 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.



City of Larimore Ordinances

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.

8.0110 Licenses – Obligation to the City

No applicant shall be granted a license who is in default under the provisions of any City ordinance, or is indebted or obligated to the City, or is delinquent in the payment of any taxes in which the City shares.

ARTICLE 2 - Transient Merchants

8.0201 Definitions

1. For the purpose of this article:

a) “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.

b) “Merchandise” does not include any livestock or agricultural product. (Source: North Dakota Century Code § 51-04-01)

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.



City of Larimore Ordinances

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. (Source: North Dakota Century Code § 51-04-09)

8.0204 License - Application for

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

- a) 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;
- b) 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;
- c) The residence, business address and type of business in which applicant has been engaged in the previous two (2) years;
- d) 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;
- e) 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;
- f) If a vehicle is to be used, a description of the same, together with license number;
- g) The kind of business to be conducted;
- h) The name and address of the auctioneer, if any, who will conduct the sale; and
- i) 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 produces, and where such goods or products are located at the time the application is filed. (see North Dakota Century Code § 51-04-02)

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 \$1,000 executed by the applicant, as principal, and a responsible surety upon which service of process may be made in the



City of Larimore Ordinances

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 Law Enforcement Officers

It shall be the duty of the law enforcement 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 law enforcement office a record of each license number, together with the location within the City of the business licensed, to assist and promote such enforcement.



City of Larimore Ordinances

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;
- 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.



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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 Section 8.0202.

8.0303 Exhibition of License

Hawkers and peddlers are required to exhibit their license at the request of any citizen.

8.0304 Exceptions

No license shall be required for Larimore residents peddling, vending or marketing nuts, cake, candy, ice cream, or other light products or refreshments. No license shall be required for newsboys, nor to the sale of farm or garden products by the person producing the same, nor sale of admissions by local school students to a school function.

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.

8.0403 Exceptions

1. Nor shall this article apply to solicitations for philanthropic, religious, and education charitable causes if the local charitable cause or entity has charitable status under the federal tax code, and the charitable cause or entity as a whole has filed for and received a license from the City governing body.



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ARTICLE 5 - Alcoholic Beverages

8.0501 Definitions

1. For the purpose of this article:
 - a) "Alcoholic beverages" means any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
 - b) "Beer" means any malt beverage containing more than one-half of one percent of alcohol by volume.
 - c) "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.
 - d) "Liquor" means any alcoholic beverage except beer.
 - e) "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.
 - f) "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.
 - g) "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.
 - h) "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.
 - i) "Retail sale" means the sale of alcoholic beverages for use or consumption and not for resale.
 - j) "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.
 - k) "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. (see North Dakota Century Code § 5-01-01)



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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 (Source: North Dakota Century Code § 5-02-03)

1. On sale liquor licenses at an annual fee of \$500.00 dollars.
2. Off sale liquor license at an annual fee of \$700.00 dollars.
3. On and off sale beer license at an annual fee of \$200.00 dollars.
4. Off sale beer license at an annual fee of \$200.00 dollars.
5. Sunday permit included in the annual license fees.

8.0505 Licenses - Terms of

1. All licenses issued hereunder shall be for a period of not more than one (1) year and shall expire on the 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.



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8.0506 License - Qualifications for (Source: North Dakota Century Code § 5-02-02)

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

a) 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.

b) If applicant is a corporation or limited liability company, the manager of the licensed premises and the officers, directors, shareholder, or members must be legal residents of the United States and persons of good moral character. Corporate and limited liability applicants must first be properly registered with the North Dakota Secretary of State

a) 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.

b) Applicant or manager must not have been convicted of an offense determined by the North Dakota Attorney General to have a direct bearing upon an applicant's or manager's ability to serve the public as an alcoholic beverage retailer.

c) Building in which business is to be conducted must meet local and state requirements regarding the sanitation and safety.

d) Taxes on property for which application for license is made must not be delinquent.

e) 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

1. 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:

a) 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.

b) 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.



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- c) The legal description and the address of the premises for which license is sought.
- d) 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.
- e) Whether there are any delinquent taxes against the premises sought to be licensed.
- f) 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.
- g) 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.
- h) 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.
- i) 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.
- j) Whether the applicant has ever been convicted of any other crime than stated in subsections (f) and (g) 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.
- k) 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.
- l) 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.
- m) 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.
- n) The occupations that the applicant has followed during the past five years.



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- o) The names and addresses of at least three business references.
- p) Whether the applicant is rated by any commercial agency, and if so, the name and address of said agency.
- q) 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.
- r) The classification of license applied for.
- s) 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.
- t) 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

1. 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. A public hearing shall then be had on said application, upon notice published in the official newspaper of the City two (2) times, the first publication to be at least 15 days before the hearing date set for hearing said application. 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:

- a) The convenience of law enforcement regulations.
- b) Public health and sanitation.
- c) Proximity of other licensed businesses.
- d) Proximity of schools, churches, funeral homes, public buildings or buildings used by or for minors.



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- e) Any protests of neighboring property owners or occupants.
- f) Zoning regulations.
- g) Proposed on- or off-sale or both licensee.
- h) Interference with or proximity to residential property.
- i) Interference with neighboring property.
- j) Suitability of premises for sale of beer, liquor or alcoholic beverages.
- k) 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 – Limit of Number

The maximum number of each classification of license which may be issued shall be four (4).

8.0513 License - Posting of

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

8.0514 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.

8.0515 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.



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8.0516 Hours and Time of Sale - Penalty

An establishment may not dispense or permit the consumption of alcoholic beverages on the licensed premises after two a.m. on Sundays and before eight a.m. on Mondays, between the hours of two a.m. and eight a.m. on all other days of the week, on Christmas Day, or after 6:00 p.m. on Christmas Eve.. In addition, an establishment may not provide off sale after two a.m. on Thanksgiving Day or between two a.m. and noon on Sundays. An establishment that violates this section faces possible suspension or revocation of its license.

8.0517 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.

8.0518 Sunday Alcoholic Beverage Permit

Anyone licensed by the City governing body to sell alcoholic beverages may apply to the City governing body for a permit to sell alcoholic beverages under that license during the hours from twelve noon on Sundays to two a.m. on Mondays. The authority for issuing the permit rests solely with the City governing body. The fee for this permit is five dollars for each Sunday the licensee is allowed to sell alcoholic beverages. (Source: North Dakota Century Code §§ 5-02-03, 5-02-05, and 5-02-05.1).

8.0519 Sunday Alcoholic Beverage Penalty

Anyone who dispenses, sells or permits the consumption of alcoholic beverages in violation of Ordinance 8.0618 or 8.0619, or who furnishes false or misleading information in applying for a permit is guilty of an infraction which is punishable by a fine of up to one thousand dollars (\$1000.00) and possible suspension or revocation of license. (Source: North Dakota Century Code § 5-02-05.1)

8.0520 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.

8.0521 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.



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8.0522 Sales Prohibited - Persons

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

8.0523 Minors in Licensed Premises

No licensee shall permit any person under twenty-one (21) years of age to remain on the licensed premises while alcoholic beverages are being sold or displayed thereon, except that a person under twenty-one (21) years of age may remain in a restaurant where alcoholic beverages are being sold if the restaurant is separate from the room in which alcoholic beverages are opened or mixed. (Source: North Dakota Century Code § 5-02-06)

8.0524 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.

8.0525 Street Sales Prohibited

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

8.0526 Street Sales Prohibited - Exceptions

The sale of alcoholic beverages of all types may be authorized outside of licensed premises no more than three times per calendar year upon resolution of the governing body, which must have the approval of no less than four members of the governing body. The sale of alcoholic beverages shall be limited to a single location, and the governing body shall establish in said resolutions rules and regulations consistent with this article for the purpose of insuring that reasonable standards of order and cleanliness shall be maintained. No resolution approving the sale of alcoholic beverages outside of licensed premises shall be effective until a written request signed by all holders of alcoholic beverage licenses, or their authorized representatives, who intend to participate shall have been filed with the City Auditor on a form provided by the Auditor. The resolution shall limit said sale to no more than three consecutive days.

8.0527 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.



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8.0528 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.

8.0529 Mandatory Alcohol Server Training

1. No person shall work in any premises licensed under this chapter for the sale of alcoholic beverages, whether on- or off-sale, as a manager, bartender, waiter, waitress, or in any other capacity where such person may sell, serve or deliver alcoholic beverages in or from premises licensed under this chapter or whose job description entails the checking of identification for the purchase of alcoholic beverages or admittance into the licensed premises unless such person shall either:

- a) Possess a certificate of training issued by a training program approved by the City council or,
- b) Successfully complete server training presented by a training program approved by the City council or a trainer approved by the City council and obtain a certificate of training within sixty (60) days after the first day of active employment.

2. All certificates of training issued under this chapter shall be valid for three (3) years from the date of issuance. The certificate of training may be renewed by its holder prior to its expiration as provided herein.

3. All persons licensed under this chapter for the sale of alcoholic beverages, whether on- or off-sale, shall require all employees engaged in the sale, service, delivery, or management of the sale or service of alcoholic beverages, or the checking of identification for the purchase of alcoholic beverages or admittance into the licensed premise to possess or timely obtain certification required hereunder.

4. Each licensee under this article shall maintain on file at its licensed premises a listing of each person employed by the licensee, identifying all employees required to obtain training under this article, date of hire for such employees, date of training for such employees, name of trainer for such employees and those employees that have successfully completed the training and certification required hereunder.

5. Application for server testing shall be submitted to a training program approved by the City council upon forms provided by said training program and such application shall be verified under oath and shall contain such information as determined by a training program approved by the City council to be reasonably required for the purposes of determining competency and eligibility.

6. All training programs and instructors must be approved by the City council.

7. All training programs shall minimally include the following topics:

- a) Reducing accessibility of alcohol to minors



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b) Over-consumption/over-serving of alcohol.

c) Server liability.

8. The City council shall approve a test for those persons completing an approved training program and for those seeking to renew a certificate of training.

9. The City council may authorize a person or entity for the administration of any test or training program required hereunder.

10. Any person having completed the approved training must attain a minimum score of seventy-five (75) percent on a test administered by, under the direction of, or approved by the City council in order to successfully complete the training and obtain or renew a certificate.

11. Each person successfully completing the training and test will be issued a certificate by the establishing the date of successful completion of training.

12. Each certificate shall expire three years from the date of issuance.

8.0530 Mandatory Alcohol Server Training Penalty

1. Any person or establishment violating the provisions of Ordinance 8.0529 shall be subject to a fine as follows:

a) A fine not exceeding fifty dollars (\$50.00) for a first violation;

b) A fine not exceeding one hundred dollars (\$100.00) for a second violation within one year of the first violation;

c) A fine not exceeding two hundred dollars (\$200.00) for each violation within one year of the second violation.

8.0531 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.

8.0532 Bottle Clubs

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



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8.0533 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.

8.0534 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.

8.0535 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 a violation 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:



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- 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.

8.0536 Penalties

Any person, firm, corporation or association violating any of the provisions of this article shall be guilty of an infraction, and upon conviction thereof, be subject to a fine of not to exceed one thousand dollars (\$1,000.00). In addition, all powers, right and privileges given by any license granted under the terms of this article may be terminated or revoked in accordance with Section 8.0636.

ARTICLE 6 - Shows, Carnivals and Circuses

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, menagerie, tent, show, carnival or carnival show, continuous theatrical performance, shooting gallery, or other like exhibition without first obtaining license from the City.

8.0602 Fees for

1. The fees to secure license to conduct the exhibitions under Section 8.0601 shall be as follows:

a) Any carnival, per day\$10.00

b) Any circus, per day.....\$50.00

2. In addition to the above fees, any show, carnival or circus granted a license shall deposit with the City auditor a cash deposit in the amount of \$1,000.00 to guarantee that the premises upon which such show, carnival or circus is located shall be cleaned after the completion of such show, carnival or circus. Upon determination of the City that the same premises have been cleaned, the cash deposit shall be



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returned to the licensee. Provided, further, that in addition to such fees, an additional fee in an amount from \$50.00 to \$500.00, to be fixed by the City governing body, shall be paid at the time of obtaining the license to provide for fire and police protection in connection with such show, carnival or circus.

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 one thousand dollars (\$1,000.00). 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

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CHAPTER NINE

TRAFFIC

ARTICLE 1 – Definitions

9.0101 Definitions

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

ARTICLE 2 – Traffic Administration

9.0201 Duty of City Law Enforcement Officers

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

9.0202 Records of Traffic Violations

1. The City law enforcement officers shall keep a record of all violations of the traffic ordinances of the City or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such record shall be so maintained as to show all types of violations and the total of each. Each record shall accumulate during at least a five-year period and from that time on the record shall be maintained complete for at least the most recent five-year period.

2. All forms for records of violations and notices of violations shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of such form.

3. All such records and reports shall be public record.

9.0203 City Law Enforcement Officers to Investigate Accidents

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

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



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ARTICLE 3 – Enforcement and Obedience to Traffic Regulations

9.0301 Authority of City Law Enforcement Officers and Fire Department Officials

1. It shall be the duty of the City law enforcement officers or such officers as are assigned to enforce all street traffic laws of this City and all of the state vehicle laws.
2. City law enforcement officers or such officers as are assigned 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, city law enforcement officers 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 law enforcement in directing traffic.

9.0302 Obedience to Traffic Ordinances

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

9.0303 Obedience to Law Enforcement Officers or Firefighters

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

9.0304 Certain Non-motorized Traffic to Obey Traffic Regulations

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



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9.0305 Public Employees to Obey Traffic Regulations

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

9.0306 Emergency Vehicles

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

2. Authorized emergency vehicles. Class A authorized emergency vehicle shall mean:

- a) Vehicles of a governmentally owned fire department;
- b) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title pertaining to all motor vehicles or by a salaried employee of any municipal police department within the municipality or by any sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of Class A authorized emergency vehicles;
- c) Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation;
- d) Ambulances;
- e) Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the North Dakota Game and Fish Department;
- f) Vehicles owned or leased by the United States and used for law enforcement purposes;
- g) Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency;
- h) Vehicles operated by or under the control of the director of the North Dakota Parks and Recreation Department;
- i) Vehicles operated or under the control of a licensed railroad police officer and used for law enforcement purposes;
- j) Vehicles operated by or under the control of the North Dakota State Forester. (Source: North Dakota Century Code § 39-01-01)

3. The driver of a Class A authorized emergency vehicle may:



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- a) Park or stand, irrespective of the provisions of this chapter;
 - b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - c) Exceed the speed limit so long as he does not endanger life or property;
 - d) Disregard regulations governing directions of movement or turning in specified directions.
4. The exceptions herein granted to a Class A authorized emergency vehicle shall apply only:
- a) When the authorized emergency vehicle is in pursuit of or apprehension of a violator or a suspected violator requiring the use of these exemptions;
 - b) When the Class A authorized emergency vehicle is being operated in response to a reported emergency involving a possible personal injury, death, or damage to property, and when giving adequate warning by use of a flashing red or combination red and white lights that are visible under normal atmospheric conditions for at least five hundred feet (152.4 meters) and if appropriate, giving audible signal by siren or airhorn. A law enforcement vehicle that is otherwise a Class A authorized emergency vehicle may display a flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision;
 - c) In any instance when the head of the law enforcement agency deems advisable within the area of that person's jurisdiction for the protection of person and property and when giving audible signal by siren or when giving adequate warning by use of a flashing red or combination red and white lights which are visible under normal atmospheric conditions for at least five hundred feet (152.4 meters). A law enforcement vehicle that is otherwise a Class A authorized emergency vehicle may display a flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision.
 - d) An emergency vehicle may not display or permit to be displayed any red lamp except when operated on official business.
 - e) Any law enforcement officer as provided in paragraph 2 of subdivision a of subsection 2 of Section 39-01-01 of the North Dakota Century Code having stopped another vehicle along a highway, and while still involved in that incident, or any other such activity, may use amber lights, visible under normal atmospheric conditions for at least five hundred feet (152.4 meters), for the purpose of maintaining traffic flow.
 - f) Class B authorized emergency vehicles shall mean wreckers and such other emergency vehicles as are authorized by local authorities. (Source: North Dakota Century Code § 39-01-01)
5. The driver of Class B authorized emergency vehicles may:
- a) Park or stand, irrespective of the provisions of this chapter;



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- b) Exceed the speed limit so long as he does not endanger life or property during the time of a local or national disaster;
 - c) Disregard regulations governing direction of movement or turning in specified directions.
 - d) The exceptions herein granted to a Class B authorize emergency vehicle shall apply only when the authorized emergency vehicle is displaying an amber light visible under normal atmospheric conditions for a distance of five hundred feet (152.4 meters) in any direction, and
 - e) When it is necessary for the authorized emergency vehicle to use these exemptions for the immediate protection of life or property;
 - f) When an authorized emergency vehicle is stopped on a highway for the purpose of performing a duty as required of the driver; or
 - g) When traveling at a speed slower than the normal flow of traffic. (Source: North Dakota Century Code § 39-10-03.1)
6. Class C authorized emergency vehicles means:
- a) Vehicles authorized by the state division of homeland security or local division of emergency management organizations;
 - b) Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
 - c) Vehicles other than ambulance, used by emergency medical services personnel. (Source: North Dakota Century Code § 39-01-01)
 - d) Class C authorized emergency vehicles. All Class B specifications apply to Class C authorized emergency vehicles except that a rotating blue flashing light shall be displayed in place of an amber light as provided in Section 39-10-03.1 of the North Dakota Century Code. With respect to vehicles used by state and local disaster emergency services personnel, the division of homeland security is responsible for adopting rules for the use of flashing blue lights in accordance with chapter 28-32 of the North Dakota Century Code. (Source: North Dakota Century Code § 39-10-03.2)

9.0307 Operation of Vehicles on Approach of Authorized Emergency Vehicles - Penalty

1. The provisions of Section 39-10-26 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. Upon the immediate approach of an authorized emergency vehicle displaying a visible flashing, revolving, or rotating blue, white, or red light, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.



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3. If an authorized emergency vehicle is parked or stopped at the scene of an emergency and is displaying a flashing, revolving, or rotating blue, white, or red light, approaching traffic shall move to the right-hand edge or curb of the roadway and shall stop, but once having stopped, traffic may proceed past the scene at its own risk when the roadway is clear, except when otherwise directed by a police officer. If an authorized emergency vehicle is otherwise parked or stopped on the interstate system or on a multilane highway outside the limits of a city, and the authorized emergency vehicle is displaying a flashing, revolving, or rotating amber, blue, white, or red light, the driver of an approaching vehicle shall proceed with caution and yield the right of way by moving to a lane that is not adjacent to the authorized emergency vehicle if the move may be made with due regard to safety and traffic conditions or if not, the driver shall proceed with due caution, reduce the speed of the vehicle, and maintain a safe speed for the road conditions.

4. If a vehicle operated by or under the control of the director used for maintaining the state highway system is parked or stopped on the interstate system or on a multilane highway outside the limits of a city, and the vehicle is displaying a flashing, revolving, or rotating amber or white light, the driver of an approaching vehicle shall proceed with caution and yield the right of way by moving to a lane that is not adjacent to the vehicle if the move may be made with due regard to safety and traffic conditions or if not, the driver shall proceed with due caution, reduce the speed of the vehicle, and maintain a safe speed for the road conditions.

5. This section does not operate to relieve the driver of an authorized emergency vehicle or a vehicle operated by or under the control of the director used for maintaining the state highway system from the duty to drive with due regard for the safety of all persons using the highway.

6. a. Any individual who violates subsection 2 and causes an accident with an authorized emergency vehicle while the authorized emergency vehicle is displaying a visible flashing, revolving, or rotating amber, blue, white, or red light is guilty of an infraction.

b. An individual who violates subsection 3 and causes an accident with a vehicle operated by or under the control of the director used for maintaining the state highway system while the vehicle is displaying a visible flashing, revolving, or rotating amber or white light is guilty of an infraction.

9.0308 Written Report of Accident

1. Immediate notice of accident. The driver of a vehicle involved in an accident resulting in injury to or death of any person or at least one thousand dollars, shall immediately give notice of the accident to the local police department if the accident occurs within the City. The name of the motor vehicle insurance policy carrier and the policy number of the driver, or if the driver is not the owner of the vehicle, then the motor vehicle insurance policy carrier and the policy number of the owner of the vehicle, must be furnished to the law enforcement officer investigating the accident. If the driver does not have the required information concerning insurance to furnish to the investigating law enforcement officer, then within five (5) days of the accident the driver shall supply that information to the Driver's License Division in the form the division requires.

The driver of a vehicle involved in an accident with an undomesticated animal resulting in property damage only to the driver's vehicle is exempt from the notice requirements of this section,



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regardless of the amount of damage to the driver's vehicle. (Source: North Dakota Century Code § 39-08-09)

2. Officer to report. Every law enforcement officer, who in the regular course of duty investigates a motor vehicle accident required to be reported as provided in subsection 1 either at the time and at the scene of the accident or thereafter by interviewing the participants, or witnesses, shall make and promptly forward to the director of the Department of Transportation a report of the accident in a format prescribed by the director. (Source: North Dakota Century Code § 39-08-10)

a) An accident notice is not required from any person who is physically incapable of making the report during the period of such incapacity.

b) Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall make or cause to be given the notice not given by the driver.

c) Whenever the driver is physically incapable of giving notice of an accident and such driver is not the owner of the vehicle, then the owner of the vehicle involved shall within five (5) days after learning of the accident give such notice and insurance information not given by the driver. (Source: North Dakota Century Code § 39-08-11)

3. Garages to report. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in a reportable accident as provided in Section 9.0309 (1) or of being struck by any bullet, shall report or cause a report to be made to a police officer within twenty-four (24) hours after such motor vehicle is received, and before any repairs are made to such vehicle, giving the registration number and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff or highway patrolman bearing information to show that the accident in which the vehicle was involved had been investigated. The police officer investigating any reportable accident shall attach a sticker to the window of any damaged vehicle showing that the accident in which such vehicle was involved has been investigated. If the vehicle does bear such a sticker the garage or repair shop need not make the report this section requires and may begin repairs immediately. After repairs have been made and before the vehicle is released, the sticker provided herein must be removed. (Source: North Dakota Century Code § 39-07-12)

4. Wrecker and towing services to report. The person in charge of the operator of any commercial towing or wrecker service which causes any motor vehicle to be transported to a private residence or business other than a garage or repair shop which show evidence of having been involved in a reportable accident as provided in Section 9.0309(1) or of being struck by any bullet shall report or cause a report to be made to a police officer within twenty-four hours after such motor vehicle is transported. The report must give the registration number, and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, along with the location such vehicle was transported to, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff, or highway patrolman, bearing information to show that the accident in which the vehicle was involved has been investigated. If the vehicle does bear such a sticker



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the towing or wrecker service need not make the report this section requires. (Source: North Dakota Century Code § 39-07-13)

ARTICLE 4 – Traffic Control Devices

9.0401 Authority to Install

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

9.0402 Specifications for

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

9.0403 Obedience to Traffic-Control Devices

1. The provisions of North Dakota Century Code § 39-10-04 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. 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.
3. 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.
4. Whenever official traffic-control devices are placed in position approximately conforming to the requirements of state law, such devices shall be presumed to have been so placed by the official act or direction of lawful authority unless the contrary shall be established by competent evidence.
5. Any official traffic-control device placed pursuant to the provisions of state law and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of the chapter, unless the contrary shall be established by competent evidence.



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9.0404 Unauthorized Signs

1. The provisions of North Dakota Century Code § 39-10-07.2 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. No person may place, maintain, or display upon or in view of any highway, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device or any railroad sign or signal.
3. No person may place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.
4. This section may not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.
5. 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.
6. No person may place, maintain, or display upon or within the right of way of any highway any sign, post, pole, mailbox, or signal which has a red lamp or red reflector visible to traffic. The provisions of this subsection shall not apply to official traffic devices, lamps, or reflectors on motor vehicles or bicycles, or railroad signals or signs.
7. This section does not prohibit the use of portable battery-powered warning devices emitting a flashing red light placed upon a highway to alert oncoming traffic to a disabled or stopped motor vehicle.

9.0405 Interference with Official Traffic Control Device or Sign

1. The provision of North Dakota Century Code § 39-10-07.3 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. A person may not, without lawful authority, attempt to or in fact alter, deface, injure, knock down, remove, or interfere with the operation of any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

9.0406 Designation of Walks, Lanes, etc.

1. The city engineer or any person authorized by the City governing body shall:
2. Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where there is particular danger to pedestrians crossing the roadway, and at such other places as directed by the City governing body.



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3. Establish safety zones of such kind and character and at such places as may be deemed necessary for the protection of pedestrians as determined by the City governing body.

4. Mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement or performing other lawful traffic movements.

ARTICLE 5 – Speed Regulations and Care Required

9.0501 Basic Rules – Penalty for Violation

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

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

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

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

9.0502 Speed Limitations

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

2. Subject to the provisions of 9.0501 and except in those instances where a lower speed is specified in this chapter, it presumably shall be lawful for the driver of a vehicle to drive the same at a speed not exceeding:

3. Twenty (20) miles an hour when approaching within fifty (50) feet of a grade crossing of any steam, electric, or street railway when the driver’s view is obstructed. A driver’s view is deemed to be obstructed when at any time during the last two hundred (200) feet of the driver’s approach to such



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crossing, the driver does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred (400) feet in each direction from such crossing;

4. Twenty (20) miles an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours;

5. Twenty (20) miles an hour when approaching within fifty (50) feet and in traversing an intersection of highways when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last fifty (50) feet of the driver's approach to such intersection, the driver does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred (200) feet from such intersection;

6. Twenty (20) miles an hour when the driver's view of the highway ahead is obstructed within a distance of one hundred (100) feet;

7. Twenty-five (25) miles an hour on any highway in a business district or in a residence district or in a public park, unless a different speed limit is designated and posted by local authorities;

8. Fifty-five (55) miles an hour under other circumstances, unless otherwise permitted, restricted, or required by conditions;

9. Sixty-five (65) miles an hour on paved two-lane highways of posted for that speed, unless otherwise permitted, restricted, or required by conditions;

10. Seventy (70) miles an hour on paved and divided multilane highways, unless otherwise permitted, restricted, or required by conditions;

11. Seventy-five (75) miles an hour on access-controlled, paved and divided, multilane interstate highways, unless otherwise permitted, restricted, or required by conditions;

12. Except as provided by law, it is unlawful for any person to drive a vehicle upon a highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed by law or established pursuant to law; and

13. In charging a violation of the provisions of this section, the complaint must specify the speed at which the defendant is alleged to have driven and the speed which this section prescribes is prima facie lawful at the time and place of the alleged offense.

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

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

2. Whenever the City, on the basis of an engineering and traffic investigation, determines that the maximum speed permitted under this title is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the City may determine and declare a reasonable and safe maximum limit thereon which:



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- 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.

3. The City shall determine by an engineering and traffic investigation the proper maximum speed for arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the minimum speed permitted under this chapter for an urban district.

4. 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.

5. Any alteration of maximum limits on state highways or extensions thereof in the City may not be effective until such alteration has been approved by the director of the North Dakota Department of Transportation.

6. Not more than six such alterations as hereinabove authorized shall be made per mile along a street or highway except in the case of reduced limits at intersections, and the difference between adjacent limits shall not be more than ten (10) miles per hour.

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

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

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

9.0505 Minimum Speed Limits

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

2. An individual may not drive a motor vehicle at a reduced speed so as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

3. If the director of the North Dakota Department of Transportation and the superintendent of the North Dakota Highway Patrol, acting jointly, or the City, determines on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the safe, normal, and reasonable movement of traffic, the director and superintendent or the City may determine and declare a minimum speed limit below which an individual may not drive a vehicle except when necessary for safe



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operation or in compliance with law, and that limit is effective when posted upon appropriate fixed or variable signs.

9.0506 Regulations of Speed by Traffic Signals

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

9.0507 Exhibition Driving and Drag Racing – Definitions – Penalty

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

2. No person may engage in exhibition driving of any vehicle on a highway, street, alley, sidewalk, or any public or private parking lot or area, nor may any person engage in a race, a speed competition, drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration. Any person who violates this section by engaging in an act defined by subdivision b of subsection 2 must be assessed a fee of fifty dollars. Any person who violates this section by engaging in an act defined by subdivision a or c of subsection 2 must be assessed a fee of one hundred dollars.

3. As used in this section:

a) “Drag race” means the operation of two or more vehicles from a point side-by-side by accelerating rapidly in a competitive attempt to cause one vehicle to out distance the other; or the operation of one or more vehicles over a common selected course from the same point to the same point for the purpose of comparing the relative speed or powers of acceleration of such vehicle or vehicles within a certain distance or time limit.

b) “Exhibition driving” means driving a vehicle in a manner which disturbs the peace by creating or causing unnecessary engine noise, tire squeal, skid, or slide upon acceleration or braking; or driving and executing or attempting one or a series of unnecessarily abrupt turns.

c) “Race” means the use of one or more vehicles in an attempt to outgain, outdistance, or to arrive at a given distance ahead of another vehicle or vehicles; or the use of one or more vehicles to willfully prevent another vehicle from passing the facing vehicle or vehicles, or to test the physical stamina or endurance of the persons driving the vehicles over a long distance driving route.

4. Nothing in this section shall be construed as prohibiting drag racing, exhibition driving, or similar events when carried out in an organized manner on a track or other privately owned area specifically set aside and used solely for such purposes by drivers of motor vehicles, including snowmobiles.

9.0508 Radar Evidence in Speed Violations

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



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

9.0509 Care Required in Operating Vehicle

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

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

ARTICLE 6 – Turning Movements

9.0601 Required Position and Method of Turning

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

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

a) Right turns. Both the approach for a right turn and a right turn must be made as close as practicable to the right-hand curb or edge of the roadway;

b) Left turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable, the left turn must be made to the left of the center of the intersection and so as to leave the intersection in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered;

3. The City may cause official traffic-control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles, and when such devices are so placed, no driver of a vehicle may turn other than as directed and required by such devices.

9.0602 Vehicle Turning Left

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



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

9.0603 Limitations on Turning Around

1. The provision of North Dakota Century Code § 39-10-36 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. The driver of any vehicle may not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safely and without interfering with other traffic.
3. No vehicle may be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred (500) feet.

9.0604 Turning Movements and Required Signals

1. The provision of North Dakota Century Code § 39-10-38 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. No person may turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety without giving an appropriate signal in the manner hereinafter provided;
3. A signal of intention to turn right or left when required must be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning;
4. No person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal; and
5. The signals required on vehicles by subsection 2 of Section 9.0605 may not be flashed on one side only on a disabled vehicle, flashed as a courtesy or “do pass” signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

9.0605 Signals by Hand and Arm or Signal Lamps

1. The provisions of North Dakota Century Code § 39-10-39 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. Any stop or turn signal when required herein must be given either by means of the hand and arm or by signal lamps, except as otherwise provided in subsection 2.
3. Any motor vehicle in use on a highway must be equipped with, and required signals must be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of



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the body, cab or load of such motor vehicle exceeds twenty-four (24) inches (60.96 centimeters), or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen (14) feet (4.27 meters). The latter measurement shall apply to any single vehicle and to any combination of vehicles.

9.0606 Methods of Giving Hand and Arm Signals

1. The provisions of North Dakota Century Code § 39-10-40 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. All signals herein required given by hand and arm must be given from the left side of the vehicle in the following manner and such signals must indicate as follows:
 - a) Left turn: hand and arm extended horizontally;
 - b) Right turn: hand and arm extended upward
 - c) Stop of decrease speed: hand and arm extended downward.

ARTICLE 7 – Special Stops

9.0701 Authority to Designate Through Streets

1. The provision of North Dakota Century Code § 39-07-03 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. The director of the North Dakota Department of Transportation with reference to state highways, and the City governing body, with reference to highways under their jurisdiction, may, by proclamation, designate as through highways, any highway, street, or part thereof, and erect stop signs or yield signs at specified entrances thereto, or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to such intersection.

9.0702 Through Streets Designated

Towner Ave and parts of Towner Ave are hereby declared to be through streets for the purpose of this chapter.

9.0703 Signs

All traffic control devices shall conform to state specifications.

9.0704 Stop Signs and Yield Signs

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



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2. Preferential right-of-way may be indicated by stop signs or yield signs as authorized in Section 9.0701.

3. 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.

4. 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.

5. Every stop sign and every yield sign must be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is not crosswalk, then as near as practicable to the nearest line of the intersecting roadway.

6. 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.

7. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at a point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

9.0705 Emerging from Alley or Driveway

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



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9.0706 Stop When Traffic Obstructed

1. The provisions of North Dakota Century Code § 39-10-68 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. No driver may enter any intersection or a marked crosswalk or drive on to a railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic-control signal indication to proceed.

9.0707 Obedience to Signal Indicating Approach of Train

1. The provision of North Dakota Century Code § 39-10-41 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements apply when:
 3. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
 4. 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;
 5. 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
 6. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
7. No person may drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. No person may drive any vehicle past any human flagman at a railroad crossing until the flagman signals that the way is clear to proceed.

9.0708 Certain Vehicles Must Stop At All Railroad Grade Crossings

1. The provisions of North Dakota Century Code § 39-10-43 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
2. The driver of a bus carrying passengers, or of any school bus carrying any school child, or of any vehicle carrying any chlorine, empty or loaded cargo tank vehicles used to transport dangerous articles or any liquid having a flashpoint below two hundred degrees Fahrenheit, cargo tank vehicles transporting a commodity having a temperature above its flashpoint at the time of loading, certain cargo tank vehicles transporting commodities under special permits issued by the hazardous materials regulations board, and



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every motor vehicle which must have the following placards: “explosives,” “poison,” “flammable oxidizers,” “compressed gas,” “corrosives,” “flammable gas,” “radioactive,” or “dangerous,” before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of 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 he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing such crossing and the driver shall not manually shift gears while crossing the track or tracks.

3. No stop need be made at any such crossing at which traffic is controlled by any city, state, or federal law enforcement officer.

ARTICLE 8 – Operators

9.0801 Operators – Who Prohibited

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

9.0802 License to Be Carried and Exhibited on Demand

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

2. An individual licensed to operate a motor vehicle shall have the operator's license in the individual's immediate possession at all times when operating a motor vehicle and shall physically surrender the operator's license, upon demand of any court, police officer, or a field deputy or inspector of the department. However, an individual charged with violating this section may not be convicted or assessed any court costs if the individual produces in court or in the office of the arresting officer a valid operator's license issued to that individual that is not under suspension, revocation, or cancellation at the time of the individual's arrest.

Revised 06.06.16

9.0803 Operators Must be Licensed

1. The provisions of North Dakota Century Code § 39-06-01 and all subsequent amendments are hereby incorporated by reference in this ordinance.

2. An individual, unless 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 individual has a valid license as an operator under North Dakota Century Code chapter 39-06 or a temporary operator's permit issued under North Dakota Century Code chapter 39-20. An individual may not have more than one valid operator's license at any one time.

Revised 06.06.16



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9.0804 Operators Must be Licensed

1. An individual with a class D license may operate :
 - a) A single vehicle with a gross vehicle weight rating of twenty-six thousand pounds [11793.40 kilograms] or less or this vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds [4535.92 kilograms] or a combination of vehicles with a gross combination weight or a gross combination weight rating in excess of twenty-six thousand pounds [11793.40 kilograms] if the individual is eighteen years of age or older, unless the individual is driving a farm vehicle and meets the requirements of subdivision e of subsection 7 of this section and subsection 3 of section 39-06.2-06.
 - b) A farm tractor towing another vehicle having a gross weight in excess of ten thousand pounds [4535.92 kilograms].
 - c) A truck towing a trailer in excess of ten thousand pounds [4535.92 kilograms] if the combined weight does not exceed twenty-six thousand pounds [11793.40 kilograms] gross combination weight rating.
 - d) A house car or a vehicle towing a travel trailer being used solely for personal purposes.
 - e) A two-axle or tandem-axle motor vehicle, a triple-axle motor vehicle, and a truck or truck tractor towing a trailer, semitrailer, or farm trailer if the individual is exempted from a commercial driver's license under subsection 3 of section 39-06.2-06, except the individual may not operate a double trailer or triple trailer and an individual under eighteen years of age may not operate a truck tractor or a bus designed to carry sixteen or more passengers, including the driver.
2. Any holder of a classified license who drives a motor vehicle otherwise than as permitted by the class of license issued to the holder is deemed to be driving a motor vehicle without being duly licensed. The holder of a classified license who desires to obtain a different class license must exchange or renew the license.
3. Source: N.D.C.C. § 39-06-14

Revised 06.06.16

9.0805 Restricted Licenses—Penalty for Violation

1. Upon issuing an operator's license or a temporary restricted operator's license under N.D.C.C. § 39-06.1-11, the director may impose restrictions suitable to a licensee's driving ability with respect to the type of motor vehicle, special mechanical control devices required on a motor vehicle that the licensee may operate, or any other restrictions applicable to the licensee as the director may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee. The director may either issue a special restricted class D license or may state the restrictions upon the usual license form. In the same manner, the director shall restrict licenses under N.D.C.C. § 39-16.1-09.
2. Pursuant to a restricted class D license, and consistent with N.D.C.C. § 39-06-17, a minor may operate the parent's, guardian's, grandparent's, sibling's, aunt's, or uncle's automobile. The parent, guardian,



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grandparent, sibling, aunt, or uncle at all times is responsible for any and all damages growing out of the negligent operation of a motor vehicle by a minor.

3. Subsection 2 does not authorize a minor to drive a commercial truck, motorbus, or taxicab except the holder of a restricted class D license may drive a farm motor vehicle having a gross weight of fifty thousand pounds [22679.62 kilograms] while used to transport agricultural products, farm machinery, or farm supplies to or from a farm when so operated within one hundred fifty miles [241.40 kilometers] of the driver's farm.

4. A minor with a restricted class D license issued under subsection 1 may operate the type or class of motor vehicle specified on the restricted license under the following conditions:

- a) A restricted license holder must be in possession of the license while operating the motor vehicle.
- b) An individual holding a restricted class D license driving a motor vehicle may not carry more passengers than the vehicle manufacturer's suggested passenger capacity.
- c) An individual holding a restricted class D license driving a motor vehicle may not operate an electronic communication device to talk, compose, read, or send an electronic message while operating a motor vehicle that is in motion unless the sole purpose of operating the device is to obtain emergency assistance, to prevent a crime about to be committed, or in the reasonable belief that an individual's life or safety is in danger.
- d) An individual holding a restricted class D license may not operate a motor vehicle between the later of sunset or nine p.m. and five a.m. unless a parent, legal guardian, or an individual eighteen years of age or older is in the front seat of the motor vehicle or the motor vehicle is being driven directly to or from work, an official school activity, or a religious activity.

5. It is a class B misdemeanor for an individual to operate a motor vehicle in any manner in violation of the restrictions imposed under this section except for the restrictions in subsection 4.

6. If a temporary restricted license is issued under N.D.C.C. § 39-06.1-11 and the underlying suspension was imposed for a violation of N.D.C.C. § 39-08-01 or equivalent ordinance, or is governed by N.D.C.C. chapter 39-20, punishment is as provided in subsection 3 of Larimore City Ordinance § 9.2107. Upon receiving notice of the conviction the director shall revoke, without opportunity for hearing, the licensee's temporary restricted license and shall extend the underlying suspension for a like period of not more than one year.

7. If the conviction referred to in this section is reversed by an appellate court, the director shall restore the individual to the status held by the individual before the conviction, including restoration of driving privileges if appropriate.

8. Source: N.D.C.C. § 39-06-17

Revised 06.06.16

9.0806 Unlawful Use of Licenses—Penalty

1. It is a class B misdemeanor for an individual:



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- a) To display or cause or permit to be displayed or have in possession any canceled, revoked, fictitious, or fraudulently altered operator's license or nondriver photo identification card;
- b) To lend that individual's operator's license or nondriver photo identification card to any other individual or knowingly permit the use of that individual's operator's license or nondriver photo identification card by another individual;
- c) To display or represent as an individual's own any operator's license or nondriver photo identification card not issued to that individual;
- d) To fail or refuse to surrender to the director upon demand any operator's license or nondriver photo identification card that has been suspended, revoked, or canceled;
- e) To permit any unlawful use of an operator's license or nondriver photo identification card issued to that individual; or
- f) To use a false or fictitious name in any application for an operator's license or nondriver photo identification card or to knowingly make a false statement or to conceal a material fact or otherwise commit a fraud in the application.

2. Within five days of receiving a record of conviction or other satisfactory evidence of the violation of this section, the director shall revoke the individual's operator's license or nondriver photo identification card. The director may set the period of revocation, not to exceed six months.

Revised 06.06.16

9.0807 Use of a Wireless Communication Device Prohibited

- 1. The provisions of North Dakota Century Code § 39-08-23 and all subsequent amendments are hereby incorporated by reference in this ordinance.
- 2. The operator of a motor vehicle that is part of traffic may not use a wireless communications device to compose, read, or send an electronic message.
- 3. Under this section:
 - a. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. The term includes electronic mail, a text message, an instant message, a command or request to access a worldwide web page, or other data that uses a commonly recognized electronic communications protocol. The term does not include:
 - (1) Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;
 - (2) Inputting, selecting, or reading information on a global positioning system device or other navigation system device;



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- (3) Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices, smartphones, citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;
- (4) Voice or other data transmitted as a result of making a telephone or cellular phone call; or
- (5) Data transmitted automatically by a wireless communication device without direct initiation by an individual.

b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.

4. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties.

Revised 01.03.17

9.0808 Use of an Electronic Communication Device by Minor Prohibited

1. The provisions of North Dakota Century Code § 39-08-24 and all subsequent amendments are hereby incorporated by reference in this ordinance.

2. An individual at least sixteen and under eighteen years of age who has been issued a class D license may not operate an electronic communication device to talk, compose, read, or send an electronic message while operating a motor vehicle that is in motion unless the sole purpose of operating the device is to obtain emergency assistance, to prevent a crime about to be committed, or in the reasonable belief that an individual's life or safety is in danger.

Revised 01.03.17

ARTICLE 9 – Miscellaneous Driving Rules

9.0901 When Traffic Obstructed

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

9.0902 Driving Through Funeral or Other Procession

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



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9.0903 Drivers in a Procession

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



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9.0904 Funeral Processions to Be Identified

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

9.0905 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 City governing body and such other regulations as are set forth herein which may apply.

9.0906 Drive on right Side of Roadway – Exceptions

1. The provisions of North Dakota Century Code § 39-10-08 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. Upon all roadways of sufficient width a vehicle must be driven upon the right half of the roadway, except as follows:
3. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
4. 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;
5. Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or
6. Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing must be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn in an intersection or into a private road or driveway.
7. Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle may be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subdivision b of subsection 1 hereof. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road, or driveway.



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9.0907 Passing Vehicles Proceeding in Opposite Direction

1. The provisions of North Dakota Century Code § 39-10-09 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

9.0908 Overtaking a Vehicle on the Left

1. The provisions of North Dakota Century Code § 39-10-11 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. 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;
3. 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.
4. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

9.0909 When Overtaking on the Right is Permitted

1. The provisions of North Dakota Century Code § 39-10-12 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. 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.
3. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement may not be made by driving off the roadway.

9.0910 Limitations on Overtaking on the Left

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



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

9.0911 Further Limitations on Driving on Left of Center of Roadway

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

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

a) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

b) When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing; or

c) When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.

3. The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in 9.0906 nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

9.0912 No-Passing Zones

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

2. The director of the North Dakota Department of Transportation and the City governing body are hereby authorized to determine those portions of any highway under their respective jurisdiction where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.

3. 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.



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4. This section does not apply under the conditions described in Section 9.0906 nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

9.0913 Driving On Roadways with Clearly Marked Lanes for Traffic

1. The provisions of North Dakota Century Code § 39-10-17 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. Whenever any roadway has been divided into two or more clearly marked lanes for traffic, a vehicle must be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.
3. Upon a roadway which is divided into three lanes and provides for two-way traffic, a vehicle may not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center line is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.
4. 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.
5. Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

9.0914 Following Too Closely

1. The provisions of North Dakota Century Code § 39-10-18 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. The driver of a motor vehicle may not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.
3. The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or motor vehicle drawing another vehicle shall, whenever conditions permit leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this does not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.
4. Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles must be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision does not apply to funeral processions.



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9.0915 Driving on Divided Highways

1. The provisions of North Dakota Century Code § 39-10-19 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated divided section so construed as to impede vehicular traffic, every vehicle must be driven only upon the right-hand roadway, unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicle may be driven over, across or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space at a crossover or intersection as established by public authority, unless such crossing is specifically prohibited and such prohibition is indicated by appropriate traffic-control devices.

9.0916 Restricted Access

1. The provisions of North Dakota Century Code § 39-10-20 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. No person may drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

9.0917 Restrictions on Use of Controlled-Access Roadway

1. The provisions of North Dakota Century Code § 39-10-21 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. The director of the North Dakota Department of Transportation may by order, and the City governing body may by ordinance, with respect to any controlled-access roadway under their respective jurisdictions, prohibit the use of any such roadway by any class or kind of traffic which is found incompatible with the normal and safe movement of traffic.
3. The director of the North Dakota Department of Transportation or the City governing body, as the case may be, shall erect and maintain official signs on the controlled-access roadway on which such regulations are applicable and when so erected no person may disobey the restrictions stated on such signs.

9.0918 Vehicle Entering Roadway

1. The provisions of North Dakota Century Code § 39-10-25 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. 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.



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9.0919 Vehicle Approaching or Entering Intersection

1. The provisions of North Dakota Century Code § 39-10-22 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. When two vehicles approach or enter an intersection not controlled by an official traffic-control device from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right. If the intersection is T-shaped and not controlled by an official traffic-control device, the driver of the vehicle on the terminating street shall yield to the vehicle on the continuing street or highway.
3. The right-of-way rule declared in this section is modified at through highways and otherwise as stated in this chapter.

9.0920 Overtaking and Passing School bus

1. The provisions of North Dakota Century Code § 39-10-46 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. The driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop the vehicle before reaching the school bus when there is in operation on the school bus the flashing red lights or the stop sign on the control arm specified in North Dakota Century Code § 39-21-18, and the driver may not proceed until the school bus resumes motion, the driver is signaled by the school bus driver to proceed, or the flashing red lights and the stop sign on the control arm are no longer actuated.
3. Every school bus shall 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" must be covered or concealed.
4. 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.
5. Every school bus must be equipped with a stop sign on a control arm and red visual signals meeting the requirements of North Dakota Century Code § 39-21-18, which may only be actuated by the driver of the school bus whenever, but only whenever, such vehicle is stopped on the highway for the purpose of receiving or discharging school children. A school bus driver shall not actuate said 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 law enforcement officers; or



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c) In designated school bus loading areas where the bus is entirely off the roadway.

6. 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.

7. Every school bus must bear on the rear of the bus a plainly visible sign containing the words "THIS SCHOOLBUS STOPS AT ALL RAILROAD CROSSINGS".

9.0921 Unattended Motor Vehicle - Repealed effective 08.01.19

9.0922 Limitations on Backing

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

2. The driver of a vehicle may not back the same unless such movement can be made with safety and without interfering with other traffic.

3. The driver of a vehicle may not back the same upon any shoulder or roadway of any controlled-access highway.

9.0923 Obstruction to Driver's View or Driving Mechanism

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

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

3. No passenger in a vehicle may ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle.

9.0924 Opening and Closing Vehicle Doors

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

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



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9.0925 Coasting Prohibited

1. The provisions of North Dakota Century Code § 39-10-56 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. The driver of any motor vehicle when traveling upon a down grade may not coast with the gears or transmission of such vehicle in neutral.
3. The driver of a truck or bus when traveling upon a down grade may not coast with the clutch disengaged.

9.0926 Following Fire Apparatus Prohibited

1. The provisions of North Dakota Century Code § 39-10-57 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. The driver of any vehicle other than one on official business may not follow closer than five hundred (500) feet behind an emergency vehicle displaying the appropriate light for that vehicle in an emergency. A driver of a vehicle other than one on official business may not stop the vehicle within two hundred (200) feet of any emergency vehicle stopped in answer to a 911 emergency.

9.0927 Crossing Fire Hose

1. The provisions of North Dakota Century Code § 39-10-58 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. No vehicle may be driven over any unprotected hose of a fire department when laid down on any street, private road or driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command.

9.0928 Garbage, Glass, Etc. on Highways Prohibited

1. The provisions of North Dakota Century Code § 39-10-59 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. An individual may not deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, rubbish, or any other litter, In addition, an individual may not deposit upon a highway any other substance likely to injure a person, animal or vehicle.
3. An individual who deposits, or permits to be deposited, upon a highway a destructive or injurious material shall immediately remove or cause to be removed the material.
4. An individual removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle.



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9.0929 Driving Through Safety Zone Prohibited

1. The provisions of North Dakota Century Code § 39-10-64 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. No vehicle shall at any time be driven through or within a safety zone.

9.0930 Moving Heavy Equipment at Railroad Grade Crossings

1. The provisions of North Dakota Century Code § 39-10-67 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. No person may operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half (1/2) inch per foot of the distance between any two adjacent axles or in any event of less than nine (9) inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
3. 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.
4. No such crossing may be made when warning is given by automatic signal or crossing gates or flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing must be under the flagman's direction.

9.0931 Open Container Law - Penalty

1. The provisions of North Dakota Century Code § 39-08-18 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. A person may not drink or consume alcoholic beverages, as defined in Section 5-01-01 of the North Dakota Century Code, in or on any motor vehicle when the vehicle is upon a public highway or in an area used principally for public parking. A person may not have in that person's possession on that person's person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It is unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing alcoholic beverages which have been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle is kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment must be deemed to be within the area occupied by the driver and passengers. This subsection does not prohibit the consumption or possession of alcoholic



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beverages in a house car, if the consumption or possession occurs in the area of the house car used as sleeping or living quarters and that area is separated from the driving compartment by a solid partition, door, curtain or some similar means of separation; however, consumption is not authorized while the house car is in motion. Any person violating the provisions of this section must be assessed a fee of fifty dollars (\$50.00); however the licensing authority shall not record the violation against person's driving record unless the person was the driver of the motor vehicle at the time that the violation occurred.

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

9.0932 Permitting Unauthorized Minor to Drive

An individual may not cause or knowingly permit the individual's minor child or ward to operate a motor vehicle upon any highway if the minor is not authorized under this chapter or in violation of this chapter. (Source: North Dakota Century Code § 39-06-44)

9.0933 Permitting Unauthorized Person to Drive

An individual may not authorize or knowingly permit a motor vehicle owned by the individual or under the individual's control to be operated upon any highway by any individual who is not authorized under this chapter or in violation of this chapter. (Source: North Dakota Century Code § 39-06-45)

9.0934 Failure to Display Current Registration

1. The provisions of North Dakota Century Code § 39-04-11 and all subsequent amendments are hereby incorporated by reference in this ordinance.

2. 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 housetrailer must be attached to the rear thereof. When only one number plate is furnished for an apportioned vehicle licensed under the international registration plan 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 inches [30.48 centimeters] 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.

Revised 06.06.16



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9.0935 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 this title.
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 thereto, or knowingly permit the use of any registration number plate or registration card by any person not entitled thereto.
4. To fail or refuse to surrender to the department, upon demand, any registration card, registration number plate, or validation tab which has been suspended, canceled, or revoked as is provided in this chapter.
5. To use a false or fictitious name or address in any application for the registration of any vehicle, or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise to commit a fraud in any application.

Revised 06.06.16

9.0936 Registration Card to be Carried in or on Vehicle—Inspection of Card—Penalty

1. The provisions of North Dakota Century Code § 39-04-55 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. The registration card issued for a vehicle must be carried in the driver's compartment of the vehicle or, in the case of a housetrailer 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. However, a person cited for violation of this section may not be found to have committed the violation if the person, within forty-eight 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.

Revised 06.06.16



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9.0937 Driving Without Liability Insurance Prohibited—Penalty

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by N.D.C.C. chapter 39-16.1.
2. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence, including written or electronic proof of insurance, of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section. If that person produces satisfactory evidence, including written or electronic proof of insurance, of a valid policy of liability insurance in effect at the time of the alleged violation of this section to the office of the court under which the matter will be heard, that person may not be found in violation of subsection 1.
3. Notwithstanding N.D.C.C. § 26.1-30-18, a person may be in violation of subsection 1 for failure to have a valid policy of liability insurance in effect under this section if the time of acquisition of the policy was after the time of the alleged incidence of driving without liability insurance. If the time of acquisition of the policy comes into question, the driver or owner has the burden of establishing the time of acquisition. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle.
4. For a second or subsequent violation of subsection 1 or equivalent ordinance, the court shall order the motor vehicle number plates of the motor vehicle owned and operated by the person at the time of the violation to be impounded until that person provides proof of insurance and a twenty dollar fee to the court. The person shall deliver the number plates to the court without delay at a time certain as ordered by the court. The court shall deliver the number plates to the office of the police officer that made the arrest and notify the department of the order. A person who does not provide the number plates to the court at the appropriate time is guilty of a class B misdemeanor.
5. For a violation of subsection 1 or equivalent ordinance, the person shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of one year and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.
6. A person who has violated subsection 1 or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.
7. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

Revised 06.06.16



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ARTICLE 10 - Pedestrians' Rights and Duties

9.1001 Pedestrian Obedience to Traffic Control Devices and Traffic Regulations

1. The provisions of North Dakota Century Code § 39-10-27 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. A pedestrian shall obey the instructions of any official traffic control device especially applicable to the pedestrian, unless otherwise directed by a police officer.
3. Pedestrians are subject to traffic-control and pedestrian-control signals as provided for in Section 9.0403.

9.1002 Pedestrians' Right-of-way in Crosswalks

1. The provisions of North Dakota Century Code § 39-10-28 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. 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.
3. No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.
4. Subsection 1 of this section does not apply under the conditions stated in subsection 2 of Section 9.1003.
5. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the highway, the driver of any other vehicle approaching from the rear may not overtake and pass such stopped vehicle.

9.1003 Crossing at Other than Crosswalks

1. The provisions of North Dakota Century Code § 39-10-29 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. 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.
3. 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.
4. Between adjacent intersections at which traffic-control devices are in operation pedestrians may not cross at any place except in a marked crosswalk.



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5. No pedestrian may cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

9.1004 Drivers to Exercise Due Care

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

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

9.1005 Pedestrians to Use Right Half of Crosswalks

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

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

9.1006 Pedestrians on Roadways

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

2. 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.

3. 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.

4. 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.

5. Except as otherwise provided for in this chapter, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

9.1007 Pedestrians' Right-of-Way on Sidewalks

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

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



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9.1008 Pedestrians Yield to Authorized Emergency Vehicles

1. The provisions of North Dakota Century Code § 39-10-33.2 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. Upon the immediate approach of an authorized emergency vehicle making use of an audible signal by bell, siren, or exhaust whistle and displaying a visible flashing revolving, or rotating blue, white or red light, every pedestrian shall yield the right-of-way to the authorized emergency vehicle.
3. This section does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.

9.1009 Blind Pedestrians' Right-of-way

1. The provisions of North Dakota Century Code § 39-10-33.3 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. The driver of a vehicle shall yield the right of way to an individual who is blind or visually impaired and carrying a clearly visible white cane or to an individual with a disability who is accompanied by an assistance dog.

9.1010 Pedestrians Under Influence of Alcohol or Drugs

1. The provisions of North Dakota Century Code § 39-10-33.4 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. A pedestrian who is under the influence of alcohol or any drug to a degree which renders the pedestrian a hazard may not walk or be upon a roadway.

9.1011 Bridge and Railroad Signals

1. The provisions of North Dakota Century Code § 39-10-33.5 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. No pedestrian may pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

9.1012 Pedestrians Soliciting Rides or Business

1. The provisions of North Dakota Century Code § 39-10-34 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. No person may stand in a roadway for the purpose of soliciting a ride.
3. No person may stand in a roadway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.



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4. No person may stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

ARTICLE 11 – Regulations for Motorcycles

9.1101 Traffic Laws Apply to Persons Operating Motorcycles or Motorized Bicycles

1. The provisions of North Dakota Century Code § 39-10.2-01 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. Every person operating a motorcycle or motorized bicycle is granted all of the rights and is subject to all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter and except as to those provisions of these ordinances which by their nature can have no application. For purposes of this chapter, the term “motorcycle” means motorcycles and motorized bicycles.

9.1102 Riding on Motorcycles

1. The provisions of North Dakota Century Code § 39-10.2-02 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator may not carry any other person nor may any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.
3. A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle.
4. No person may operate a motorcycle while carrying any package, bundle or other article which prevents the person from keeping both hands on the handlebars.
5. No operator may carry any person, nor may any person ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

9.1103 Operating Motorcycles on Roadways with Clearly Marked Lanes for Traffic

1. The provisions of North Dakota Century Code § 39-10.2-03 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. All motorcycles are entitled to the full use of a lane and no motor vehicle may be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection does not apply to the operation of motorcycles two abreast in a single lane as authorized in subsection 4.



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3. The operator of a motorcycle may not overtake and pass in the same lane occupied by the vehicle being overtaken.
4. No person may operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicle.
5. Motorcycles may not be operated more than two abreast in a single lane.
6. Subsections 2 and 3 do not apply to police officers in the performance of their official duties.

9.1104 Clinging to Other Vehicles

1. The provisions of North Dakota Century Code § 39-10.2-04 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. No person riding upon a motorcycle may attach the person's self or the motorcycle to any other vehicle on a roadway.

9.1105 Footrests

1. The provisions of North Dakota Century Code § 39-10.2-05 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, must be equipped with footrests for such passenger.

9.1106 Equipment for Motorcycle Riders

1. The provisions of North Dakota Century Code § 39-10.2-06 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. No person under the age of eighteen years may operate or ride upon a motorcycle unless a safety helmet meeting United States department of transportation standards 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 a safety helmet, any passenger must also wear a safety helmet regardless of the age of the passenger.
3. This section does not apply to persons riding within an enclosed cab or on a golf cart.
4. No person may operate a motorcycle if a person under the age of eighteen years is a passenger upon that motorcycle and is not wearing a safety helmet as provided in subsection 2.

9.1107 Other Applicable Law

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



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

ARTICLE 12 – Regulations for Bicycles

9.1201 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 (\$5.00).
2. The parent of any child and the guardian of any ward may not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.
3. These regulations applicable to bicycles apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein. (Source: North Dakota Century Code § 39-10.1-01)

9.1202 Traffic Ordinances Apply to Persons Riding Bicycles

Every person riding a bicycle upon a roadway is granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in this chapter and except as to those provisions of this chapter which by their nature can have no application. (Source: North Dakota Century Code § 39-10.1-02)

9.1203 Obedience to Traffic Control Devices

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

9.1204 Riding on Sidewalks

1. The chief of police or authorized person may erect signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person and when such signs are in place no person may disobey the same.
2. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.



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9.1205 Riding on Roadways and Bicycle Paths

1. The provision of North Dakota Century Code § 39-10.1-05 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. An individual 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.
3. A group of individuals riding bicycles upon a roadway may not ride more than two abreast, except on paths or parts of roadways set aside for the exclusive use of bicycles.

9.1206 Clinging to Vehicles

1. The provisions of North Dakota Century Code § 39-10.4-04 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle may attach the same or the person's self to any vehicle upon a roadway, except a sled being pulled by a snowmobile.

9.1207 Carrying Articles

1. The provisions of North Dakota Century Code § 39-10.1-06 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. No person operating a bicycle may carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.

9.1208 Lamps and other Equipment on Bicycles

1. The provisions of North Dakota Century Code § 39-10.1-07 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. Every bicycle when in use at nighttime must be equipped with a lamp on the front which emits a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type approved by the North Dakota Department of transportation. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.
3. Every bicycle must be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

9.1209 Riding on Bicycles

1. The provisions of North Dakota Century Code § 39-10.1-03 and all subsequent amendments are hereby incorporated by reference in this ordinance.



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2. A person propelling a bicycle may not ride other than upon or astride a permanent and regular seat attached thereto.

3. No bicycle may be used to carry more persons at one time than the number for which it is designed and equipped.

9.1210 Bicycle Parking

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

9.1211 Cycle Racing Prohibited

It shall be unlawful for any persons to run or engage in or cause to be run or be engaged in any bicycle or motorcycle race on any street, alley, highway or public place within the City, except when officially sanctioned to do so by the chief of police.

9.1212 Point System Not Applicable

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

2. Any violation of this article, or any moving violation as defined in Section 9.2210, or any nonmoving violation as defined in Section 9.2209 when committed on a bicycle as defined in Section 9.0101, is not cause for the licensing authority to access points against the driving record of the violator pursuant to North Dakota Century Code § 39-06.1-10. Any other legally authorized penalty for a criminal traffic offense or non-criminal traffic violation is applicable to bicyclists.

9.1213 Bicycle May be Impounded by Law Enforcement

Any bicycle left abandoned upon the streets of the City and picked up by law enforcement shall be held and a \$10.00 pick-up fee shall be charged.

ARTICLE 13 – Angle Parking

9.1301 Angle Parking

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

9.1302 Close to Curb

No person may stand or park a vehicle in a street other than on the roadway and parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right hand wheels of



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the vehicle within eighteen (18) inches of the curb or edge of the roadway except as otherwise provided in this article.

9.1303 Method of Parking - Penalty

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

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

9.1401 Parking Prohibited - Times

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

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

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

2. Upon any highway outside of a business or residence district no person may stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway of not less than twelve (12) feet opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of two hundred feet in each direction upon such highway.

3. Sections 9.1402, 9.1404 and 9.1405 do not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

9.1403 Officers Authorized to Remove Illegally Stopped Vehicles

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

2. Whenever any law enforcement officer finds a vehicle standing upon a highway in violation of any of the provisions of Section 9.1402, such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of such highway.

3. Whenever any law enforcement officer finds a vehicle unattended upon any highway, bridge or causeway, or in any tunnel where such vehicle constitute an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.

4. Any law enforcement officer is hereby authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:



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- a) A report has been made that such vehicle has been stolen or taken without consent of its owner;
- b) The person or persons in charge of such vehicle are unable to provide for its custody or removal; or
- c) When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.

9.1404 Stopping, Standing or Parking Prohibited in Specified Places

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

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

- a) On a sidewalk;
- b) In front of a public or private driveway;
- c) Within an intersection;
- d) Within ten (10) feet of a fire hydrant;
- e) On a crosswalk;
- f) Within ten (10) feet of a crosswalk at an intersection;
- g) Within fifteen (15) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
- h) Between a safety zone and the adjacent curb or within fifteen (15) feet of points on the curb immediately opposite the ends of a safety zone, unless the North Dakota Department of Transportation or the City indicates a different length by signs or markings;
- i) Within fifteen (15) feet of the nearest rail of a railroad crossing;
- j) 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;
- k) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;



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- l) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - m) Upon any bridge or other elevated structure upon a highway or within a highway tunnel; or
 - n) At any place where official signs prohibit stopping.
3. No person shall move a vehicle not lawfully under the person's control into any such prohibited area or away from a curb such distance as is unlawful.

9.1405 Additional Parking Regulations

1. The provisions of North Dakota Century Code § 39-10-50 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. Except as otherwise provided in this ordinance, every vehicle stopped or parked upon a two-way roadway must be so stopped or parked with the right-hand wheels of such vehicle parallel to and within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.
3. Except where otherwise provided by ordinance, every vehicle stopped or parked upon a one-way roadway must be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within twelve (12) inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.
4. The City governing body may permit angle parking on any roadway, except that angle parking is not permitted on any federal-aid or state highway without first obtaining the written authorization of the director of the North Dakota Department of Transportation.
5. The North Dakota Department of Transportation with respect to highways under its jurisdiction may place official traffic-control devices prohibiting or restricting the stopping, standing or parking of vehicles on any highway where in its opinion such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. No person may stop, stand or park any vehicle in violation of the restrictions indicated by such devices.

9.1406 Stopping - Parking - Certain Purposes Prohibited

1. No person may park a vehicle upon any roadway for the principal purpose of:
2. Displaying such vehicle for sale;
3. Washing, greasing or repairing such vehicle except when repairing such vehicle is necessitated by an emergency.



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9.1407 Stopping - Parking - Congested - Hazardous Places

1. The city engineer or other person designated by the City governing body is hereby authorized to determine and designate by proper signs, places in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.
2. When official signs are erected at hazardous or congested places as authorized herein, no person may stop, stand or park a vehicle in any such designated place.

9.1408 Parking Prohibited on Narrow Streets

1. The city traffic engineer or authorized person may erect signs indicating no parking upon any street when the width of the roadway does not exceed 20 feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.
2. When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign.

9.1409 Stopping - Parking - In Alleys

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

9.1410 Parking Adjacent to Schools

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

9.1411 Stopping - Parking - Over 48 Hours

During the months between October 15 and April 15, no vehicle shall be left standing upon any of the streets, avenues, roadways, public ways, boulevards, public property or alleys of the City of Larimore for a longer period than forty-eight (48) hours, provided this section shall not include any areas 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. At the expiration of such time, said vehicle shall be moved a distance of not less than fifty (50) feet from the original location.

9.1412 Parking Privileges for Mobility-Impaired - Certificate - Revocation

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



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2. Any mobility-impaired individual who displays prominently upon an automobile parked by that individual or under that individual's direction and for that individual's use, the distinguishing certificate specified in subsection 4, license plates issued under Section 39-04-10.2 of the North Dakota Century Code, or a disabled veteran plate issued under subdivision j of subsection 2 of Section 39-04-18 of the North Dakota Century Code is entitled to courtesy in the parking of the automobile. However, any municipality may prohibit, by ordinance, parking on any highway for the purpose of creating a fire lane or to provide for the accommodation of heavy traffic during morning and afternoon rush hours. The privileges extended to a mobility-impaired individual do not apply on a highway if parking is prohibited.

3. A mobility-impaired individual as used in this section includes an individual who uses portable oxygen; requires personal assistance or the use of crutches, a wheelchair, or a walker to walk two hundred feet [60.96 meters] without rest; is restricted by cardiac, pulmonary, or vascular disease from walking two hundred feet [60.96 meters] without rest; has a forced expiratory volume of less than one liter for one second or an arterial oxygen tension of less than sixty millimeters of mercury on room air while at rest and is classified III or IV by standards for cardiac disease set by the American heart association; has an orthopedic, neurologic, or other medical condition that makes it impossible for the person to walk two hundred feet [60.96 meters] without assistance or rest; or is a disabled veteran issued a plate under subdivision i of subsection 2 of Section 39-04-18 of the North Dakota Century Code.

4. Repealed by S.L. 1989, ch. 319, § 6.

5. The director may issue, for a fee of three dollars per year or part of a year, a special identifying certificate to any mobility-impaired applicant upon submission by the applicant of a completed application and a written statement issued by a qualified physician or an advanced practice registered nurse to the director that the applicant is a mobility-impaired person within the criteria of subsection 3. The director shall waive the requirement for a written statement from a qualified physician or an advanced practice registered nurse if the applicant has previously submitted an application containing a certification from a qualified physician or an advanced practice registered nurse that the applicant's impairment is not reversible. The application must include the information required by the director. The physician's or advanced practice registered nurse's statement must describe how the impairment limits the applicant's mobility and daily life functions of the applicant. The certificate is valid for a period, not to exceed three years, as determined by the director. A physician or an advanced practice registered nurse who provides a false statement that an individual is mobility impaired for the purpose of that individual obtaining a certificate under this subsection is guilty of an infraction for which a minimum fine of one hundred dollars must be imposed. A certificate issued under this subsection must be nine and one-half inches [24.13 centimeters] in height and three inches [7.62 centimeters] in width and must bear, in white on blue, the internationally accepted symbol of access for the mobility impaired. The certificate must bear the expiration date and registration number assigned by the director. The director shall adopt rules governing the issuance of the certificate. A temporary certificate, valid for an initial period not to exceed three months, may be issued by the director for a fee of three dollars upon application supported by a physician's or an advanced practice registered nurse's statement. The director may issue a maximum of one additional temporary certificate for a fee of three dollars. The temporary certificate may be extended an additional period, not to exceed three months, upon application supported by a physician's or an advanced practice registered nurse's statement that the extension is warranted. Temporary certificates must be the same size as other certificates issued under this section and must be white on red. The director may issue a maximum of one additional certificate, if the applicant does not have number plates issued under Section 39-04-10.2 of the North Dakota Century Code or under subdivision j of subsection 2 of Section 39-04-18 of the North



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Dakota Century Code, for a fee of six dollars per certificate, to a mobility-impaired individual to whom a certificate has been issued under this subsection. The additional certificates may only be used by or on behalf of the mobility-impaired individual.

6. Except as provided in this subsection, two dollars of each fee for issuance of a certificate and one dollar of each fee for issuance of an additional certificate under this section must be deposited in the state highway department fund for purposes of defraying the cost of issuing the certificate. The rest of the fee, and the five dollar fee received for the issuance of an additional certificate under subsection 5, must be deposited in the state treasury and credited to the employment of people with disabilities fund. The fees deposited in the fund are hereby appropriated on a continuing basis to the department of human services for use by the committee on employment of people with disabilities to accomplish the committee's statutory duties provided under Section 50-06.1-16 of the North Dakota Century Code. If a certificate is lost, mutilated, or destroyed, the individual to whom the certificate was issued is entitled to a replacement. The individual shall furnish proof satisfactory to the director that the certificate has been lost, mutilated, or destroyed, and shall pay a replacement fee of three dollars.

7. 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 individual or another individual for the purposes of transporting the mobility-impaired individual. No part of the certificate may be obscured. A fee of five dollars may be imposed for a violation of this subsection.

8. An applicant may appeal a decision denying issuance of the certificate to the director. Written notice of the appeal must be received within ten business days following receipt by the applicant of notice of denial. The applicant has sixty days to provide additional supportive material to the director for purposes of deciding the appeal. The director shall affirm or reverse the decision to deny issuance of the certificate within thirty days after receipt of the supportive material. Written notice of the decision must be given to the applicant.

9. If a law enforcement officer finds that the certificate is being improperly used, the officer may report to the director any violation and the director may, in the director's discretion, remove the privilege. An individual who is not mobility impaired and who exercises the privileges granted a mobility-impaired individual under subsection 2 is guilty of an infraction for which a fine of one hundred dollars must be imposed.

10. If a public or private entity designates parking spaces for use by a motor vehicle operated by a mobility-impaired individual, those reserved spaces must comply with the requirements of the 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]1 and must be indicated by blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space. In addition to blue paint, 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 must be imposed. For particular events, a public or a private entity may reserve additional parking spaces for use by motor vehicles operated by a mobility-impaired individual. 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



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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.

11. An individual 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 individual. A mobility-impaired individual may not permit the use of a certificate issued under this section by an individual who is not mobility impaired when that use is not in connection with the transport of the mobility-impaired individual. 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 individual operating the vehicle at the time of the violation. A vehicle may temporarily use a space reserved for a mobility-impaired individual without a mobility-impaired certificate for the purpose of loading and unloading a mobility-impaired individual. A violation of this subsection is a nonmoving violation for which a fee of one hundred dollars must be imposed. Notwithstanding Section 29-27-02.1 of the North Dakota Century Code, 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.

12. 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 a mobility-impaired individual 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.

13. An entity that violates the requirements of subsection 10 is guilty of an infraction if the entity does not comply with subsection 10 within sixty days after receiving official notification of the violation.

14. The department shall issue a mobility-impaired parking permit for a vehicle owned and operated by care providers licensed by the state, veterans-related organizations, and other entities that regularly transport mobility-impaired individuals for use by those providers and entities to park in designated parking spaces while transporting mobility-impaired individuals.

9.1413 Parking Prohibited – All Times

When signs are erected giving notice thereof, it shall be unlawful for any person to park or leave standing any motor vehicle, either attended or unattended.

9.1414 Parking Prohibited – Truck Tractors or Semitrailer

No truck tractor or semitrailer may be parked within any residential area of the City.

9.1415 Penalty

A violation of the provisions of this article, for which a penalty is not specified, is punishable by a fine of not to exceed twenty-five dollars (\$25.00).



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ARTICLE 15 - Reserved Parking Areas

9.1501 Reserved Parking Areas

1. 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.
2. Law enforcement may establish from time to time areas for loading and unloading, bus parking, guest parking, taxi parking, emergency parking, no parking or law enforcement and fire use on such public streets in such places and in such number as the governing body may specifically designate to be of greatest benefit and convenience to the public. These areas shall be designated by appropriate signs.

ARTICLE 16 - Time Limit Parking Zones

9.1601 Time Limit Parking Zones

1. When signs are erected giving notice thereof, no person, firm or corporation shall park or leave standing, either attended or unattended any motor vehicle for more than the amount of time posted.
2. The city engineer or authorized person may establish time parking zones from time to time in such places as they determine, or as the governing body shall specifically designate, to promote the greatest benefit and convenience to the public and the best use of the street areas.

ARTICLE 17 - Equipment of Vehicles

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

1. Every motor vehicle must be equipped with a windshield. No person may drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings or side or rear windows which obstructs the driver's clear view of the highway or any intersection highway.
2. The windshield on every motor vehicle must be equipped with a device for cleaning rain, snow or other moisture from the windshield, which must be so constructed as to be controlled or operated by the driver of the vehicle.
3. Every windshield wiper upon a motor vehicle must be maintained in good working order.
4. A person may not operate a motor vehicle with any object or any material displayed, affixed or applied on the front windshield or on any side window where that material alters the color or reduces the light transmittance, or reduces the clear and unobstructed view through the windshield or window. This subsection does not apply to windows behind the driver or to tinted windows or windshields in compliance with the Federal Motor Vehicle Safety Standards.



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9.1702 Child Restraint Devices - Evidence

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

2. Violation of this ordinance is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation. (Source: North Dakota Century Code § 39-21-41.2)

9.1703 Use of Safety Belts - Enforcement

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

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

9.1704 Drawbar or Connection Between Vehicles - Precautions Required

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



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9.1705 Modification of Motor Vehicle

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

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



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9.1706 Scope and Effect of Equipment Requirements - Penalty

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

ARTICLE 18 - Motorcycle Equipment

9.1801 Purpose

1. The provisions of North Dakota Century Code chapter 39-27 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. It is the purpose of this ordinance to establish performance and equipment requirements for the manufacture, sale and safe operation of a motorcycle upon public highways, and to furnish administrators with a guide for registration eligibility and continued conformity as related to motorcycles. (Source: North Dakota Century Code § 39-27-01)

9.1802 Manufacturer's or Distributor's Certification

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



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9.1803 Frame-Chassis Requirements

1. The motorcycle frame-chassis, including the suspension components and engine mountings, must be of substantial construction, capable of supporting the combined weight of all vehicle components and riders for which the vehicle is designed, and withstand normal road shocks and operational stresses without constituting a hazard to the riders or other users of the highway.
2. The wheelbase may not be less than forty (40) inches. (Source: North Dakota Century Code § 39-27-03)

9.1804 Brakes

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

9.1805 Brakes on Motor-Driven Cycles

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

9.1806 Tires, Wheels and Rims

1. Motorcycle tires must be of pneumatic design with a minimum width of two and twenty-five hundredths inches [57.15 millimeters] designed for highway use.



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2. Tires on two-wheel motorcycles and the single tire on the front or rear of a three-wheel motorcycle must have a load capacity rating at least equal to their respective gross axle weight ratings. Each tire on the front or rear axle of a three-wheel motorcycle must have a load capacity rating at least equal to one-half the front or rear axle gross axle weight rating.

3. Wheel rim diameters may not be less than ten inches [25.4 centimeters] or otherwise comply with title 49, Code of Federal Regulations, part 571, Federal Motor Vehicle Safety Standards, and must 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 inches [508 millimeters] or greater. (Source: North Dakota Century Code § 39-27-05)

9.1807 Steering and Suspension Systems

1. Motorcycle steering and suspension systems must be designed and engineered to provide the operator with the means of safely controlling vehicle direction under all maneuvers required for normal and safe operation.

2. The rear wheel of a two-wheel motorcycle must track behind the front wheel within one inch [2.54 centimeters] with both wheels in a vertical plane when the vehicle is operating on a straight course. On a three-wheel motorcycle, the midpoint of the front or rear wheel track distance must be within one inch [2.54 centimeters] of the single front or single rear wheel track when the vehicle is proceeding on a straight course. The vehicle must be equipped with an adjustment feature that will provide proper wheel tracking.

3. The steering head must be provided with a bearing or similar device that will allow the steering shaft to turn freely in rotational motion only.

4. All motorcycles, except three-wheel motorcycles, must meet the following specifications in relationship to front wheel geometry:

- a) MAXIMUM: Rake: 45 degrees--Trail: 14 inches
(a) [35.56 centimeters] positive
- b) MINIMUM: Rake: 20 degrees--Trail: 2 inches
(a) [5.08 centimeters] positive

Manufacturer's specifications must include the specific rake and trail for each motorcycle or class of motorcycles and the terms "rake" and "trail" must be defined by the director by rules adopted pursuant to chapter 28-32.

5. Handlebars must be of sturdy construction, adequate in size to provide proper leverage for steering, and capable of withstanding a minimum force of one hundred pounds [45.36 kilograms] applied to each handgrip in any direction. Handlebar grips may not be located above the shoulder height of the seated operator. The handlebars must provide a minimum of eighteen inches [45.72 centimeters] between grip after final assembly.

6. Handlebars must be equipped with handgrips consisting of a material and surface pattern to ensure firm, nonslip gripping for the driver.



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7. Every motorcycle must be equipped with a suspension system and such suspension system must be applicable to at least the front wheel. The suspension system must be effective in reducing road shock and designed for the purpose of maximizing vehicle stability. (Source: North Dakota Century Code § 39-27-06)

9.1808 Fuel Systems

1. All fuel system components, including the tank, pump, tubing, hoses, clamps, etc. must be securely fastened to the motorcycle so as not to interfere with vehicle operation and be leak proof when the vehicle is in its normal operating attitude.

2. Fuel lines must be positioned in a manner to prevent their contact with the engine head, manifold, exhaust system or other high temperature surfaces or moving components. The fuel system must be adequately vented and provided with a fuel shutoff valve located between the fuel supply and the engine. (Source: North Dakota Century Code § 39-27-07)

9.1809 Exhaust Systems - Prevention of Noise

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

9.1810 Mirrors

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

9.1811 Fenders

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



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9.1812 Seat or Saddle

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

9.1813 Chain Guard

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

9.1814 Vehicle Stand

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

9.1815 Glazing

1. When equipped, all motorcycle windscreens and windshields must meet the following standards:
 - a) The glazing material must comply with the standards promulgated by rule of the director of the North Dakota Department of Transportation.
 - b) The metal support must be of a material which shall bend rather than fragment under impact.
 - c) Covering material, other than glazing, must be beaded at the edges to prevent fraying. (Source: North Dakota Century Code § 39-27-14)

9.1816 Horn

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

9.1817 Speedometer and Odometer

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



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9.1818 Lighting Equipment

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

9.1819 Lighting Equipment on Motor-Driven Cycles

1. The headlamp or headlamps upon every motor-driven cycle may be of the single-beam or multiple-beam type.
2. Every headlamp or headlamps on a motor-driven cycle must be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred feet [30.48 meters] when the motor-driven cycle is operated at any speed less than twenty-five miles [40.23 kilometers] per hour and at a distance of not less than two hundred feet [60.96 meters] when the motor-driven cycle is operated at a speed of twenty-five or more miles [40.23 or more kilometers] per hour, and at a distance of not less than three hundred feet [91.44 meters] when the motor-driven cycle is operated at a speed of thirty-five miles [56.33 kilometers] per hour.
3. In the event the motor-driven cycle is equipped with a multiple-beam headlamp or headlamps the upper beam must meet the minimum requirements set forth above and may not exceed the limitations set forth in subsection 1 of Section 39-21-20 of the North Dakota Century Code and the lowermost beam must meet the requirements applicable to a lowermost distribution of light as set forth in subsection 2 of Section 39-21-20 of the North Dakota Century Code.
4. In the event the motor-driven cycle is equipped with a single-beam lamp or lamps the lamp or lamps must be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of twenty-five feet [7.62 meters] ahead, projects higher than the level of the center of the lamp from which it comes. (Source: North Dakota Century Code § 39-27-17.1)

9.1820 Passenger Seat

Motorcycles designed to carry more than one person must be equipped with a securely mounted seat for each passenger located to the side or rear of the driver such that the passenger seat does not interfere with the driver's control or operation of the vehicle. In the case of a two-wheel vehicle, the



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passenger seat must be located on the longitudinal centerline of the motorcycle. (Source: North Dakota Century Code § 39-27-18)

9.1821 Footrests

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

9.1822 Highway Bars

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

9.1823 Equipment Approval

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

ARTICLE 19 - Lighted Lamps Required

9.1901 When Lighted Lamps are Required

1. Subject to the exceptions for parked vehicles, every vehicle upon a highway within this state must display lighted headlamps, tail lamps, and illuminating devices as required in this chapter for different classes of vehicles as follows:

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

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



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

9.2001 Load Restrictions Upon Vehicles Using Certain Roadways

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

9.2002 Commercial Vehicles Prohibited from Using Certain Streets

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

9.2003 Size Restrictions Upon Vehicles Using Certain Highways

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

9.2004 Restrictions Upon Use of Streets by Certain Vehicles

1. The city traffic engineer or authorized person may determine and designate those streets upon which shall be prohibited the use of the roadway by off-highway vehicles, all-terrain vehicles, snowmobiles, bicycles, horse-drawn vehicles or other types of traffic and shall erect appropriate signs giving notice thereof.

2. When signs are so erected giving notice thereof, no person may disobey the restrictions stated on such signs.

ARTICLE 21 - Criminal Traffic Violations

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

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

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

a) That person has an alcohol concentration of at least eight one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle.

b) That person is under the influence of intoxicating liquor.



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c) That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely driving.

d) That person is under the combined influence of alcohol and any other drugs or substances to a degree which renders that person incapable of safely driving.

e) That individual refuses to submit to any of the following:

(1) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under Section 39-06.2-10.2 of the North Dakota Century Code if the individual is driving or is in actual physical control of a commercial motor vehicle; or

(2) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under North Dakota Century Code § 39-20-01; or

(3) An onsite screening test, or tests, of the individual's breath for the purpose of estimating the alcohol concentration in the individual's breath upon the request of a law enforcement officer under North Dakota Century Code § 39-20-14.

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

3. An individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state who refuses to submit to a chemical test, or tests, required under Sections 39-06.2-10.2, 39-20-01, or 39-20-14 of the North Dakota Century Code, is guilty of an offense under this section.

4. An individual violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second offense in a seven-year period, of a class A misdemeanor for a third offense in a seven-year period, of a class C felony for any fourth or subsequent offense regardless of the length of time since the previous offense. The minimum penalty for violating this section is as provided in subsection 5. The court shall take judicial notice of the fact that an offense would be a subsequent offense if indicated by the records of the director or may make a subsequent offense finding based on other evidence.

5. Upon conviction of a second or subsequent offense within seven years under this section or equivalent ordinance, the court may order the motor vehicle number plates of all of the motor vehicles owned and operated by the offender at the time of the offense to be destroyed by the office of the police officer that made the arrest. The offender shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the office and notify the department of the order. An offender who does not provide the number plates to



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the court at the appropriate time is subject to revocation of probation. The court may make an exception to this subsection, on an individual basis, to avoid undue hardship to an individual who is completely dependent on the motor vehicle for the necessities of life, including a family member of the convicted individual and a co-owner of the motor vehicle, or if the offender is participating in the twenty-four seven sobriety program.

6. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection. For purposes of this subsection, unless the context otherwise requires, “drug court program” means a district court-supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and chemical addiction treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug courts and the drug court program.

a) (1) For a first offense, the sentence must include both a fine of at least five hundred dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program.

(2) In addition, for a first offense when the convicted person has an alcohol concentration of at least sixteen one-hundredths of one percent by weight, the offense is an aggravated first offense and the sentence must include a fine of at least seven hundred fifty dollars and at least two days' imprisonment.

b) For a second offense within seven years, the sentence must include at least ten days' imprisonment, of which forty-eight hours must be served consecutively; a fine of one thousand five hundred dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; and at least twelve months' participation in the twenty-four seven sobriety program under North Dakota Century Code chapter 54-12 as a mandatory condition of probation.

c) The imposition of sentence under this section may not be deferred under subsection 4 of North Dakota Century Code § 12.1-32-02 for an offense subject to this section.

d) If the offense is subject to subdivision a or b, a municipal court or district court may not suspend a sentence, but may convert each day of a term of imprisonment to ten hours of community service for an offense subject to paragraph 2 of subdivision a. The district court may require the defendant to complete alcohol and substance abuse treatment and rehabilitation under the direction of the drug court program as a condition of probation in accordance with rules adopted by the supreme court. If the district court finds that a defendant has failed to undergo an evaluation or complete treatment or has violated any condition of probation, the district court shall revoke the defendant's probation and shall sentence the defendant in accordance with this subsection.

e) For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section must be considered a prior offense if such offense was committed within the time limitations specified in this section.

f) If the penalty mandated by this section includes imprisonment or placement upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo treatment at an



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appropriate licensed addiction treatment program under subdivision g of subsection 1 of North Dakota Century Code § 12.1-32-02 and the time spent by the defendant in the treatment must be credited as a portion of a sentence of imprisonment or placement under this section. A court may not order the department of corrections and rehabilitation to be responsible for the costs of treatment in a private treatment facility.

g) If the court sentences an individual to the legal and physical custody of the department of corrections and rehabilitation, the department may place the individual in an alcohol treatment program designated by the department. Upon the individual's successful completion of the alcohol treatment program, the department shall release the individual from imprisonment to serve the remainder of the sentence of imprisonment on probation, which may include placement in another facility or treatment program. If an individual is placed in another facility or treatment program after release from imprisonment, the remainder of the individual's sentence of imprisonment must be considered time spent in custody.

7. As used in subdivisions b of subsection 5, the term “imprisonment” includes house arrest. As a condition of house arrest, a defendant may not consume alcoholic beverages. The house arrest must include a program of electronic home detention and the defendant shall participate in the twenty-four seven sobriety program. The defendant shall defray all costs associated with the electronic home detention. For an offense under subdivision b or c of subsection 5, no more than ninety percent of the sentence may be house arrest.

8. As used in this title, participation in the twenty-four seven sobriety program under chapter 54-12 means compliance with North Dakota Century Code §§ 54-12-27 through 54-12-31, and requires sobriety breath testing twice per day seven days per week or electronic alcohol monitoring, urine testing, or drug patch testing. The offender is responsible for all twenty-four seven sobriety program fees and the court may not waive the fees.

9. The municipal judge or municipal court has no jurisdiction to hear, try and determine an offense which would be a violation of this section if the person charged with the offense has twice previously been convicted of violation of North Dakota Century Code § 39-08-01 or equivalent ordinance preceding the commission of the offense charged, the municipal judge shall dismiss the charge, without prejudice and direct that the charge be filed against the person in a court of proper jurisdiction. (Source: North Dakota Century Code § 39-08-01)

9.2102 Prior Offenses

For purposes of this article and Article 22 of this Chapter, a previous conviction does not include any prior violation of Section 9.2101 if the offense occurred prior to July 1, 1981. (Source: North Dakota Century Code § 39-08-01.1)

9.2103 Reckless Driving - Penalty

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

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



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a) Recklessly in disregard of the rights or safety of others; or

b) Without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or the property of another.

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

9.2104 Accidents Involving Damage to Vehicle - Penalty

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

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

9.2105 Duty Upon Striking Unattended Vehicle - Penalty

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

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

9.2106 Duty Upon Striking Fixtures Upon a Highway

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

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



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

1. The provisions of North Dakota Century Code § 39-06-42 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. Except as provided in Section 39-06.1-11 of the North Dakota Century Code, an individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state while an individual's operator's license is suspended or revoked in any jurisdiction is guilty of a class B misdemeanor for the first, second, or third offense within a five-year period. Any subsequent offense within the same five-year period is a class A misdemeanor.
3. If the suspension or revocation was imposed for violation of Section 39-08-01 of the North Dakota Century Code or equivalent ordinance or was governed by Section 39-06-31 of the North Dakota Century Code or chapter 39-20 of the North Dakota Century Code, the sentence must be at least four consecutive days' imprisonment and a fine as the court deems proper. The execution of sentence may not be suspended or the imposition of sentence deferred under subsection 3 or 4 of Section 12.1-32-02 of the North Dakota Century Code. Forfeiture of bail is not permitted in lieu of the defendant's personal appearance in open court for arraignment on a charge under this subsection.
4. A court may dismiss a charge under this section upon motion by the defendant if the defendant's operator's license is reinstated within sixty days of the date of the offense and the defendant provides to the court satisfactory evidence of the reinstatement.
5. In addition to any other punishment imposed, the court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be destroyed by the sheriff. If a period of suspension has been extended under subsection 6 of Section 39-06-17 of the North Dakota Century Code, the court may order the number plates to be destroyed under this subsection. The offender shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the sheriff and notify the department of the order. An offender who does not provide the number plates to the court at the appropriate time is subject to revocation of probation.
6. A city may authorize, by ordinance, its municipal judge to order destruction of motor vehicle number plates by the office of the police officer that made the arrest in the manner provided in subsection 4.

9.2108 Operation of Snowmobiles

1. For the purpose of this ordinance, the following definitions of North Dakota Century Code § 39-24-01 and all subsequent amendments are hereby incorporated by reference:
 - a) "Dealer" means a person engaged in the business of buying, selling, or exchanging snowmobiles, who advertises or holds out to the public as being engaged in the buying, selling, or exchanging of snowmobiles, or who engages in the buying of snowmobiles for resale.
 - b) "Operate" means to ride in or on and control the operation of a snowmobile.



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- c) "Operator" means every person who operates or is in actual physical control of a snowmobile.
- d) "Owner" means a person, other than a lien holder, having the property in or title to a snowmobile and who is entitled to the use or possession of that snowmobile.
- e) "Person" includes an individual, partnership, corporation, association, the state and its departments, agencies, and political subdivisions, and any body of persons, whether incorporated or not.
- f) "Register" means the act of assigning a registration number to a snowmobile.
- g) "Registrar" means the Director of the Department of Transportation of this state as provided in North Dakota Century Code § 24-02-01.3.
- h) "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel.
- i) "Snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow, having a curb weight of not more than one thousand two hundred pounds [544.31 kilograms], driven by track or tracks in contact with the snow, steered by a ski or skis in contact with the snow, and which is not wider than forty-eight inches [121.92 centimeters]. The term does not include an off-highway vehicle as defined in chapter 39-29 converted to operate on tracks. (Source: North Dakota Century Code § 39-24-01)

9.2109 Rules for Operation of Snowmobiles

1. No person may operate a snowmobile upon the roadway, shoulder or inside bank or slope of any road, street or highway in this City except as provided pursuant to this article. No snowmobile shall be operated at any time within the right of way of any interstate highway except for emergency purposes.
2. A snowmobile may make a direct crossing of a street or highway provided:
 - a) The crossing is made at an angle of approximately ninety (90) degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
 - b) The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
 - c) The driver yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
 - d) In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.



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3. No snowmobile may be operated unless it is equipped with at least one (1) headlamp, one tail lamp and brakes, all in working order, which conform to standards prescribed by rule of the director of the North Dakota Department of Transportation.
4. The emergency conditions under which a snowmobile may be operated other than as provided by this article shall be such as to render the use of an automobile impractical under such conditions at such period of time and location.
5. It is unlawful for any person to drive or operate any snowmobile in the following ways which are declared to be unsafe and a public nuisance:
 - a) At a rate of speed greater than reasonable or proper under all the surrounding circumstances, but not to exceed posted and statutory speed limits.
 - b) In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
 - c) While under the influence of intoxicating liquor or a drug as defined in Section 39-24.1-01 of the North Dakota Century Code, or a combination thereof.
 - d) Without a lighted headlamp and tail lamp when required for safety.
 - e) In any tree nursery or planting in a manner which damages or destroys growing stock.
 - f) Without a manufacturer-installed or equivalent muffler in good working order and connected to the snowmobile exhaust system.
 - g) Upon any private land when the private land is posted by the owner or tenant prohibiting trespassing. The name of the person posting the land must appear on each sign in legible characters. The posted signs shall be readable from the outside of the land and shall be placed conspicuously at a distance of not more than eight hundred eighty (880) yards (804.68 meters) apart, provided further that as to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes posting of all the enclosed lands.
6. Except as provided herein, no snowmobile shall within the municipality:
 - a) Be operated at a speed in excess of posted and statutory speed limits.
 - b) Pass another snowmobile or vehicle in operation.
 - c) Ride abreast of another snowmobile or vehicle.
 - d) Be operated on any street next to a school or church while in session.
 - e) Be operated in any municipal park or recreational area unless posted open to snowmobiles.
 - f) Be operated upon private property without the express consent of the owner.



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g) Be left unattended on public property while motor is running.

h) Carry more than three persons.

7. It is unlawful for any person to operate a snowmobile pursuant to Chapter 39-24 of the North Dakota Century Code without having in possession a valid driver's license or permit, except as provided by Section 39-24-09.1 of the North Dakota Century Code.

8. When snowmobiles are operated within the right of way of any road, street or highway of this state pursuant to this chapter, during times or conditions that warrant the use of lights, such snowmobiles shall travel in the same direction as the direction of motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the snowmobile.

9. It is unlawful for any person to operate a snowmobile within a highway right of way as defined in subsection 38 of section 24-01-01.1 of the North Dakota Century Code between April 1 and November 1 of any year.

10. No snowmobile may be operated at any time within the right of way of any highway within this state while towing a sled, skid or other vehicle, unless the sled, skid or other vehicle is connected to the snowmobile by a hinged swivel and secure hitch.

11. Operation by person under age sixteen. Except as otherwise provided in this ordinance, it is unlawful for any person twelve years of age and over who has not reached sixteen years of age and who is not in possession of a valid driver's license or permit to operate a snowmobile, except upon the lands of the person's parent or guardian, unless and until the person has completed a snowmobile safety training course as prescribed by the director of the parks and outdoor recreation sites division pursuant to N.D.C.C. Chapter 28-32 and has received the appropriate snowmobile safety certificate issued by the commissioner. The failure of an operator to exhibit a snowmobile safety certificate upon demand to any official authorized to enforce this ordinance is presumptive evidence that the person is not the holder of the certificate. No person under age twelve years shall operate a snowmobile within the municipality.

12. No person under the age of eighteen years may operate, ride or otherwise be propelled on a snowmobile unless the person wears a safety helmet meeting United States Department of Transportation standards.

13. Penalty. Any person who violates subdivision b, c, or g of Subsection 5 of this section is guilty of a class B misdemeanor. Any person who violates any other provision of this section must be assessed a fee of twenty dollars.

9.2110 Operation of Motor Vehicle, Tractor or Other Vehicle Prohibited on Flood Protective Works - Exception - Penalty

1. Unless authorized by the authority in charge thereof, no person shall operate a motor vehicle, tractor or other vehicle upon or across any flood protective works, including but not limited to, any dike or flood protective works constructed by a state or federal agency or by any municipality or local subdivision of the state.



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

9.2111 *Repealed and Reenacted as 9.0803* (revised 06.06.16)

9.2112 *Repealed and Reenacted as 9.0802* (Revised 06.06.16)

9.2113 Penalty for Harassment of Domestic Animals

1. The provisions of North Dakota Century Code §39-08-19 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

2. Any person operating a motorcycle, snowmobile, or other motor vehicle who willfully harasses or frightens any domestic animal, is, upon conviction, guilty of a class B misdemeanor. If injury or death results to the animal due to such action, such person is liable for the value of the animal and exemplary damages as provided in Section 36-21-13 of the North Dakota Century Code.

9.2114 Penalty

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

ARTICLE 22 - Disposition of Traffic Offenses

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

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

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

- a) Take the name and address of the person;
- b) Take the license number of the person's motor vehicle; and
- c) 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.

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



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

The time to be specified in the summons or notice provided for in Section 9.2201 must be within thirty-five (35) days after the issuance of the summons or notice or earlier if so ordered by the municipal judge or if the person halted demands an earlier hearing. If the person halted desires, the person may have the right, at a convenient hour, to an immediate hearing or to a hearing within twenty-four (24) hours. The hearing must be before the municipal court. Upon the receipt from the person halted of a written promise to appear at the time and place mentioned in the summons or notice, the officer shall release the person from custody. Any person refusing to give a written promise to appear must be taken immediately by the halting officer before the nearest or most accessible magistrate, or to such other place or before such other person as may be provided by a statute or ordinance authorizing the giving of bail. Any person willfully violating the person's written promise to appear is guilty of an offense, regardless of the disposition of the charge upon which the person originally was halted. The time limitations for a hearing as provided by this section do not preclude a recharging of the alleged violation if the person being charged receives a new summons or notice subject to the provisions of this section. (Source: North Dakota Century Code § 39-07-08)

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

1. The provisions of North Dakota Century Code § 39-07-09 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. The provisions of Section 9.2201 do not apply to a person if:
 - a) The halting officer has good reason to believe the person guilty of any felony or if the person is halted and charged with any of the offenses listed in Section 39-06.1-05 of the North Dakota Century Code, but not listed in subsection 2; or
 - b) The halting officer, acting within the officer's discretion, determines that it is inadvisable to release that person upon a promise to appear and if the person has been halted and charged with any of the following offenses
 - (1) Reckless driving.
 - (2) Driving in excess of speed limitations established by the state or by local authorities in their respective jurisdictions.
 - (3) Driving while license or driving privilege is suspended or revoked for violation of Section 39-06-42 of the North Dakota Century Code, or an equivalent ordinance.
 - (4) Operating a modified vehicle.
 - (5) Driving without liability insurance in violation of Section 39-08-20 of the North Dakota Century Code.



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(6) Failing to display a placard or flag, in violation of any rule implementing Section 39-21-44 of the North Dakota Century Code, while transporting explosive or hazardous materials.

(7) Operating an unsafe vehicle in violation of subsection 2 of Section 39-21-46 of the North Dakota Century Code

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

9.2204 Traffic Violations Noncriminal – Exceptions – Procedures

1. An individual cited, in accordance with Sections 9.2201 and 9.2202, 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, is deemed to be charged with a noncriminal offense.

a) The individual may appear before the designated official and pay the statutory fee for the violation charged at or before the time scheduled for a hearing.

b) If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.

2. If the individual is cited for a traffic violation under state law and posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the violation admitted. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official in accordance with Section 39-06.1-03 of the North Dakota Century Code.

3. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive, reduce, or suspend the statutory fee or bond, or both. If the individual cited follows the foregoing procedures, the individual is deemed to have admitted the violation and to have waived the right to a hearing on the issue of commission of the violation.

4. The bond required to secure appearance must be identical to the statutory fee established by Section 39-06.1-06 of the North Dakota century Code.

5. Within ten days after forfeiture of bond or payment of the statutory fee, the official having jurisdiction over the violation shall certify to the director:

a) Admission of the violation; and

b) In speeding violations, whether the speed charged was in excess of the lawful speed limit by more than nine miles [14.48 kilometers] per hour and the miles [kilometers] per hour by which the speed limit was exceeded.



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6. Under this section a citing police officer may not receive the statutory fee or bond. (Source: North Dakota Century Code § 39-06.1-02)

9.2205 Administrative Hearing - Procedures - Appeals - Stay Orders

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

2. An individual cited for a traffic violation, other than an offense listed in Section 39-06.1-05 of the North Dakota Century Code, who does not follow one of the procedures in Section 39-06.1-02 of the North Dakota Century Code, may request a hearing on the issue of commission of the charged violation. The hearing must be held at the time scheduled in the citation, at the time scheduled in response to the individual's request, or at some future time, not to exceed ninety days later, set at that first appearance.

3. At the time of a request for a hearing on the issue of commission of the violation, the individual charged shall deposit with the official having jurisdiction an appearance bond equal to the statutory fee for the charged violation.

4. If an individual cited for a traffic violation, other than an offense listed in Section 39-06.1-05 of the North Dakota Century Code, has requested a hearing on the issue of the commission of the charged violation and appears at the time scheduled for the hearing, and the prosecution does not appear or is not ready to prove the commission of a charged violation at the hearing, the official shall dismiss the charge.

5. If the official finds that the individual had committed the traffic violation, the official shall notify the director of that fact, and whether the individual was driving more than nine miles [14.48 kilometers] per hour in excess of the lawful limit, stating specifically the miles [kilometers] per hour in excess of the lawful limit, if charged with a speeding violation, within ten days of the date of the hearing. The fact that an individual has admitted a violation, or has, in any proceeding, been found to have committed a violation, may not be referred to in any way, nor be admissible as evidence in any court, civil, equity, or criminal, except in an action or proceeding involving that individual's operator's license.

6. a) An individual may not appeal a finding from a district judge or magistrate that the individual committed the violation. If an individual is aggrieved by a finding in the municipal court that the individual committed the violation, the individual may, without payment of a filing fee, appeal that finding to the district court for trial anew. If, after trial in the appellate court, the individual is again found to have committed the violation, there is no further appeal. Notice of appeal under this subsection must be given within thirty 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 must be in writing and filed with the official, and a copy of the notice must be served upon the prosecuting attorney. An appeal taken under this subsection may not operate to stay the reporting requirement of subsection 4, nor to stay appropriate action by the director upon receipt of that report.

b) The appellate court upon application by the appellant may:



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- (1) Order a stay of any action by the director during pendency of the appeal, but not to exceed a period of one hundred twenty days;
- (2) Order a stay and that the appellant be issued a temporary restricted driving certificate by the director to be effective for no more than one hundred twenty days; or
- (3) Deny the application.

An application for a stay or temporary certificate under this subdivision must be accompanied by a certified copy of the appellant's driving record, for the furnishing of which the director may charge a fee of three dollars. Any order granting a stay or a temporary certificate must be immediately forwarded by the clerk of court to the director, who immediately shall issue a temporary certificate in accordance with the order in the manner provided by law. A court may not make a determination on an application under this subdivision without notice to the appropriate prosecuting attorney. An individual who violates or exceeds the restrictions contained in any temporary restricted driving certificate issued under this subdivision is guilty of a traffic violation and must be assessed a fee of twenty dollars.

c) If the individual charged is found not to have committed the violation by the appellate court, the clerk of court shall report that fact to the director immediately. Unless the appropriate state's attorney consents to prosecute the appeal, 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.

7. The state or the city, as appropriate, must prove the commission of a charged violation at the hearing or appeal under this section by a 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.

8. As used in Sections 39-06.1-02, 39-06.1-03 and 39.06.1-04 of the North Dakota Century Code, the word "official" means a municipal judge or a magistrate or other qualified person appointed by the presiding judge of the judicial district, to serve as such official for all or a specified part of the judicial district.

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

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

2. If an individual fails to choose one of the methods of proceeding in Sections 9.2204 or 9.2205, the individual is deemed to have admitted to commission of the charged violation, and the official having jurisdiction shall report the admission to the director within ten days after the date set for the hearing. Failure to appear at the time designated, after signing a promise to appear, if signing is required by law, or failure to appear without paying the statutory fee or posting and forfeiting bond is a class B misdemeanor. Failure to appear without just cause at the hearing is deemed an admission of commission of the charged violation.



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9.2207 Offenses Excepted

1. The provisions of North Dakota Century Code § 39-06.1-05 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. 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:
 - a) Driving or being in actual physical control of a vehicle in violation of Section 9.2101.
 - b) Reckless driving or aggravated reckless driving in violation of Section 9.2103.
 - c) A violation of Chapter 12.1-16 of the North Dakota Century Code resulting from the operation of a motor vehicle.
 - d) Leaving the scene of an accident in violation of Sections 39-08-04, 39-08-05, 39-08-07, 39-08-08 of the North Dakota Century Code, or equivalent ordinances.
 - e) Driving while license or driving privilege is suspended or revoked in violation of Section 39-06-42 of the North Dakota Century Code, or an equivalent ordinance.
 - f) Violating subdivisions b and c of subsection 5 of Section 39-24-09 of the North Dakota Century Code.
 - g) Operating a modified motor vehicle in violation of Section 39-21-45.1 of the North Dakota Century Code.
 - h) Operating an unsafe vehicle in violation of subsection 2 of Section 39-21-46 of the North Dakota Century Code.
 - i) 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 subsection 5 of Section 39-10-26 of the North Dakota Century Code.

9.2208 Amount of Statutory Fees

1. The provisions of North Dakota Century Code § 39-06.1-06 and all subsequent amendments are hereby incorporated by reference in this ordinance.
2. The fees required for a non-criminal disposition pursuant to either Section 9.2204 or Section 9.2205 shall be as follows:
 - a) For a nonmoving violation as defined in Section 9.2209, a fee of any amount not to exceed twenty dollars (\$20.00).



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b) For a moving violation as defined in Section 9.2210, a fee of twenty dollars (\$20.00), except for:

(1) A violation of Section 9.0308 or 9.0707 a fee of fifty dollars.

(2) A violation of subsection 1 of Section 9.1002 involving failure to yield to a pedestrian, a fee of fifty dollars.

(3) A violation of Section 9.1702, a fee of twenty-five dollars.

(4) A violation of Section 9.0928 or Section 9.0807, a fee of one hundred dollars.

(5) A violation of Section 9.0501, a fee of thirty dollars.

(6) A violation of Section 9.0509, a fee of thirty dollars.

(7) A violation of Section 9.0920, a fee of one hundred dollars.

c) For a violation of Section 39-21-44 of the North Dakota Century Code or a rule adopted under that section, a fee of two hundred fifty dollars.

d) For a violation of Section 9.0502 a fee established as follows:

| Miles per hour over lawful speed limit | Fee |
|---|--|
| 1 - 5 | \$ 5 |
| 6 - 10 | \$ 10 plus \$1/each mph over 5 mph over limit |
| 11 - 15 | \$ 15 plus \$1/each mph over 10 mph over limit |
| 16 - 20 | \$ 20 plus \$2/each mph over 15 mph over limit |
| 21 - 25 | \$ 25 plus \$3/each mph over 20 mph over limit |
| 26 - 35 | \$ 40 plus \$3/each mph over 25 mph over limit |
| 36 - 45 | \$ 70 plus \$3/each mph over 35 mph over limit |
| 46 + | \$100 plus \$5/each mph over 45 mph over limit |

e) For a violation of Section 9.1703, a fee not to exceed twenty dollars (\$20.00).

f) For a violation of a school zone speed limit under subdivision b of subsection 1 of Section 9.0502, a fee of forty dollars for one through ten miles per hour over the posted speed; and forty dollars, plus one dollar for each additional mile per hour over ten miles per hour over the limit unless a greater fee would be applicable under this section.

g) A violation of Section 9.0937, one hundred fifty dollars for a first violation and three hundred dollars for a second or subsequent violation in three years.

h) A violation of section 9.0704, a fee of forty dollars.

Revised 11.04.19



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9.2209 “Nonmoving Violation” Defined

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

2. For the purpose of 9.2208, a “nonmoving violation” means a violation of Sections 9.0924, 9.0932, 9.0933, 9.0934, subsection 1 of 9.0935 by an individual becoming a resident of this state, or the provisions of Article 13, Article 14, Article 15 or Article 16 of this Chapter.

Revised 06.06.16

9.2210 “Moving Violation” Defined

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

2. For the purpose of 9.2208, a “moving violation” means a violation of Article 5, Article 6, Article 8, Article 9, Article 11, Article 17, Article 18, Article 19 or Article 21 of this Chapter, except those sections for which a specific penalty is provided and those sections which are specifically listed in Section 9.2208.

Revised 06.06.16

9.2211 General Penalty for Violation of Chapter

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

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

9.2212 Notification of Parents or Guardians of Juvenile Traffic Offenders

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

ARTICLE 23 - Sections not Adopted

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

ARTICLE 24 - Filing of Ordinance

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



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ARTICLE 25 - Adoption of Amendments by Reference

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

ARTICLE 26 - Severability Clause

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

ARTICLE 27 - Penalties

Any person who is convicted of violating or of failing to comply with any of the provisions of this ordinance may be punished by a fine of not more than one thousand five hundred dollars (\$1,500.00) or by imprisonment not to exceed thirty (30) days, or both.



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CHAPTER TEN

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APPENDIXES

APPENDIX 10-1: Warning

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

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



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CHAPTER TEN

HEALTH

ARTICLE 1 – Board of Health

10.0101 Members

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

10.0102 Regulations

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

ARTICLE 2 – Local Health Officer

10.0201 Duties of Local Health Officer – Term

1. A local health officer shall serve a term of five years, subject to removal for cause by the governing body or the district board of health. The health officer must be a physician licensed to practice medicine in this state and need not be a resident of the public health unit. The appointee shall qualify by filing the constitutional oath of office in the manner provided for the members of the board of health. If the state health officer finds a local health officer is failing to perform the duties of the position, the state health officer may report the case to the governing body. At the next meeting of the governing body or district board of health, the governing body or district board of health shall declare the office vacant and may appoint another physician to fill the unexpired term, or shall report the matter to the board of health, and the board shall declare the office vacant and promptly shall appoint another physician to fill the unexpired term.
2. Within the jurisdiction of the board of health, a local health officer:
 - a) Shall keep a record of the official acts of the local health officer.
 - b) Shall enforce every law and rule relating to preservation of life and health of individuals.
 - c) May exercise the powers and duties of the board of health under the supervision of the board of health.
 - d) May make sanitary inspections of any place within the jurisdiction in which the local health officer finds a probability a health-threatening condition exists.
 - e) May investigate public water and ice supplies suspected of contamination and initiate necessary condemnation proceedings.



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f) May enforce school cleanliness; inspect any schools that may be overcrowded, poorly ventilated, or unsanitary; and, when necessary, report cases of any unsanitary or unsafe school building to the board of health for investigation.

g) May take any action necessary for the protection of public health and safety.

h) May determine when quarantine and disaffection is necessary for the safety of the public.

i) The local health officer may establish quarantines consistent with procedures provided under chapter 23-07.6 of the North Dakota Century Code, and perform any acts required for disinfecting when necessary.

j) Shall maintain an office within the jurisdiction of the public health unit consistent with any terms of appointment.

k) May select and discharge any assistant health officer in the public health unit, consistent with any terms of appointment.

3. A local health officer may request the assistance of a county sheriff or City health department in the same manner as provided under subsection 3 of section 23-35-09 of the North Dakota Century Code. (Source: North Dakota Century Code § 23-35-12)

10.0202 Penalty

Any person who violates any order, ordinance, or rule prescribed by the board of health or local health officer or any rule adopted under this chapter shall be punishable by a fine of not more than one thousand five hundred dollars (\$1,500.00) or by imprisonment not to exceed thirty (30) days or both such fine and imprisonment. (Source: North Dakota Century Code § 23-35-13)

ARTICLE 3 – Garbage, Refuse, Rubbish

10.0301 Definitions

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

a) “Ashes” is the residue from burning wood, coal, coke or other combustible materials.

b) “Garbage” is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

c) “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.

d) “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.



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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

1. All garbage and rubbish shall be placed by the person upon whose premises the same shall have been produced or accumulated, in water-resistant containers, which shall be protected against the access of flies and rodents.
2. Containers shall be placed along the curb. The City may specify where containers shall be placed along the alley or street 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.

10.0305 Nuisance

Failure to comply with the provisions of Sections 10.0302, 10.0303 and 10.0304, shall constitute a public nuisance and be punishable as such under the terms of Chapter 12 of these ordinances.

10.0306 City Collection

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

10.0307 Fees

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

10.0308 Fees – Payment – Collection

1. 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



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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.

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

3. The proceeds from the collection of the fees and charges shall be placed in the Sanitation 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 Sanitation fund.

10.0309 Disposal of Refuse not Collected by the City

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

10.0310 Supervision

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

10.0311 Rules and Regulations

The health officer of the City shall prescribe such reasonable rules and regulations in connection with preparation, handling and disposition of garbage and rubbish as may be necessary to regulate, enforce and carry out the provisions of this chapter. The health officer may direct that the City garbage and rubbish collection crews shall not collect garbage and rubbish from any premises where such rules and regulations are not complied with and the failure to collect the same shall not relieve the owner or occupant of the premises from the payment of fees nor from the enforcement of the penalties of this code. In the absence of City collection crews the health officer may give instructions to a franchised contractor.

ARTICLE 4 – Inert City Landfill Operation

10.0401 Description

The inert landfill, located 1 mile NE of the City, is provided by the City as a refuse disposal area and shall be open and accessible for use, during such hours as may be fixed by the Governing Body, and under the terms and provisions of NDCC 23-29 Solid Waste Management and Land Protection, NDAC 33-20 Solid Waste Management and Land Protection, and this chapter.



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10.0402 Definitions

The following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a) "City" is the City of Larimore, North Dakota.
- b) "Governing body" is the City council of the City of Larimore, North Dakota.
- c) "Industrial waste" means solid waste, which is not a hazardous waste regulated under chapter 23-20.3, generated from the combustion or gasification of municipal waste and from industrial and manufacturing processes. The term does not include municipal waste or special waste.
- d) "Infectious waste" means solid waste that may contain pathogens with sufficient virulence and in sufficient quantity that exposure of a susceptible human or animal to the solid waste could cause the human or animal to contract an infectious disease.
- e) "Major appliance" means an air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, furnace, water heater, humidifier, dehumidifier, garbage disposal, trash compactor, or other similar appliance
- f) "Municipal waste" means solid waste that includes garbage, refuse, and trash generated by households, motels, hotels, and recreation facilities; by public and private facilities; and by commercial, wholesale, and private and retail businesses. The term does not include special waste or industrial waste.
- g) "Person" means any individual, corporation, limited liability company, partnership, firm, association, trust, estate, public or private institution, group, federal agency, political subdivision of this state or any other state or political subdivision thereof, and any legal successor, representative agent, or agency of the foregoing.
- h) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. The term does not include:
 - (1) Agricultural waste, including manures and crop residues, returned to the soil as fertilizer or soil conditioners; or
 - (2) Solid or dissolved materials in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges that are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended [Pub. L. 92-500; 86 Stat. 816; 33 U.S.C. 1251 et seq.], or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended [68 Stat. 919; 42 U.S.C. 2011 et seq.].



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i) "Special waste" means solid waste that is not a hazardous waste regulated under chapter 23-20.3 and includes waste generated from energy conversion facilities; waste from crude oil and natural gas exploration and production; waste from mineral and ore mining, beneficiation, and extraction; and waste generated by surface coal mining operations. The term does not include municipal waste or industrial waste.

10.0403 Supervision

Subject to the control and supervision of the City superintendent, the City employee placed in charge of the inert landfill shall inform persons that request to deposit waste or major appliances at the inert landfill that said persons must comply with the provisions of this chapter.

10.0404 Access

1. Access to the inert landfill must be controlled by lockable gates and a combination of fencing, natural barriers, or artificial barriers. Hours of operation shall be set by the Governing body. (See NDAC 33-20-05.1-02)
2. Access to the inert landfill outside the set hours of operations may be permitted by appointment with the Superintendent. Payment of the fee required for access to the inert landfill outside the set hours of operation must be made prior to access.

10.0405 Authorized Use

All persons utilizing the inert landfill shall comply with the following provisions:

1. Materials to be deposited at the inert landfill shall be placed at such locations as may be directed by the City employee placed in charge of the inert landfill.
2. Use of the inert landfill by residents of the City of Larimore shall be free of charge for deposit of allowable materials generated within the City limits, with the following exceptions for which there will be a fee:
 - a) Tires
 - b) Major Appliances
3. Those area residents living outside of the corporate limits of the City of Larimore, but within a seven (7) mile radius of the City will be permitted to use the landfill, for a fee, to dispose of allowable materials generated within the seven mile radius.

10.0406 Recyclable Items

Recyclable large metal items, tires and major appliances may be deposited at the inert landfill. Refrigerators and freezers shall have their doors removed prior to placement.



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10.0407 Fees

The Governing body shall, by resolution, set all landfill fees at their regularly scheduled March meeting.

10.0408 Prohibited Items

1. Disposal of the following waste materials is prohibited:
 - a) Asbestos waste, municipal waste, commercial waste, industrial waste, special waste, regulated infectious waste, liquid solid waste, hazardous waste, and radioactive waste, chemicals or flammable materials (gasoline, household cleaners, pool chemical, etc.) or waste that is considered hazardous, unidentifiable or questionable. Agricultural waste, including manures. (See NDAC 33-20-05.1-02)
 - b) Solid or dissolved materials in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges that are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended [Pub. L. 92-500; 86 Stat. 816; 33 U.S.C. 1251 et seq.], or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended [68 Stat. 919; 42 U.S.C. 2011 et seq.].
 - c) This also includes but is not limited to:
 - (1) Animal carcasses
 - (2) House hold waste and putrescible waste
 - (3) Lead acid batteries
 - (4) Liquids
 - (5) PCB waste/oils
 - (6) Sludge of any type
 - (7) Soluble waste
 - (8) Televisions
 - (9) Un-rinsed pesticide containers
 - (10) Waste grain, and elevator screenings
 - (11) Waste Oils

10.0409 Violations

1. Entry to the inert landfill by any person outside the set hours of operation shall constitute a trespass.
2. The deposit of any refuse or other matter within the inert landfill, other than permitted in this chapter and in accordance with the orders of the City employee in charge of said grounds, shall constitute a violation of this chapter.
3. It is unlawful for any person to remove any waste, refuse, garbage, material or matter of any kind from the inert landfill, without the written permission of the governing body.



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10.0410 Penalty

A person violating this section is guilty of an infraction for which a minimum fine of one hundred dollars must be imposed, except if the litter discarded and abandoned amounted to more than one cubic foot [0.0283 cubic meter] in volume or if the litter consisted of furniture or a major appliance, the offense is a class B misdemeanor.

ARTICLE 5 – Dangerous Buildings

10.0501 Dangerous Buildings Defined

1. 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.
2. 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.
3. 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.
4. 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.
5. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.
6. 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.
7. 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.
8. 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.
9. Whenever the building or structure, or any portion thereof, because of:



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- 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.

10. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

11. 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.

12. 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.

13. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

14. 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.

15. 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.

16. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or is such a condition that is likely to cause sickness or disease.



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17. 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.

18. 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.

19. 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.

10.0502 Standards for Repair, Vacation or Demolition

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

2. 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.

3. 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.

4. In any case where a “dangerous building” is fifty (50) percent damaged or decayed or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation 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.

10.0503 Dangerous Buildings – Nuisances

All “dangerous buildings” within the terms of Section 10.0501 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.

10.0504 Duties of Building Inspector

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

a) 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 10.0501 of this Article.

b) Inspect any building, wall or structure about which any person to the effect files complaints that a building, wall, or structure is or may be existing in violation of this Article.



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c) 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.

d) Notify in writing, or request the City Attorney to notify in writing, the owner, occupant, lessee, mortgagee and all other persons having an interest in said building, as shown by the records in the office of the County Recorder, of any building found by the building inspector to be a “dangerous building” within the standards set forth in Section 10.0501 of this Article that: (a) the owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this article; (b) the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession. Provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding thirty (30) days as may be necessary to do, or have done, the work or act required by the notice provided for herein. (see Appendix 10-2)

e) Set forth in the notice provided for in subsection d 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.

f) Report to the City governing body any noncompliance with the “notice” provided for in subsection d and e hereof.

g) Appear at all hearings conducted by the City governing body and testify as to the conditions of “dangerous buildings”.

h) Place a notice on all “dangerous buildings” reading as follows: “This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee or mortgagee of this building and all other persons having an interest in said building as shown by the records of the County Recorder. It is unlawful to remove this notice until such notice is complied with.” (See Appendix 10-1)

10.0505 Duties of the City Governing Body

The City governing body shall:

a) Upon receipt of a report of the building inspector as provided for in Section 10.0504, subsection f hereof, give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the County Recorder, to appear before it on the date specified in the notice to show cause why the building or structure reported to be a “dangerous building” should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the building inspector’s notice provided for herein in Section 10.0504, subsection e. (see Appendix 10-3)



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b) Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the County Recorder shall offer relative to the “dangerous building”.

c) Make written findings of fact from the testimony offered pursuant to subsection b as to whether or not the building in question is a “dangerous building” within the terms of section 10.0501 hereof.

d) Issue an order based upon findings of fact made pursuant to subsection c 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”.

10.0506 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.

10.0507 Violations – Penalty for Disregarding Notices or Orders

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

2. The occupant or lessee in possession who fails to comply with any notice to vacate or who fails to repair said building in accordance with any notice given as provided for in this Article shall be guilty of an infraction and upon conviction thereof shall be fined not exceeding five hundred dollars (\$500.00) for each offense and every day subsequent to such notice in which the said occupant or lessee shall fail to comply with any notice or order as above stated, shall be deemed a separate offense.

3. Any person removing the notice provided for in Subsection h of Section 10.0504 shall be guilty of an infraction and upon conviction shall be fined not exceeding five hundred dollars (\$500.00) for each offense.

10.0508 Duties of the City Attorney

The City attorney shall:



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- a) Prosecute all persons failing to comply with the terms of the notices provided for in Section 10.0504, subsections d and e and the order provided for in Section 10.0505, subsection d.
- b) Appear at all hearings before the City governing body in regard to “dangerous buildings”.
- c) Take such other legal action as is necessary to carry out the terms and provisions of this article.

10.0509 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.

10.0510 Duties of Fire, Police and Health Departments

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

10.0511 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.



City of Larimore Ordinances

APPENDIX 10-1

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

WARNING

This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee or mortgagee of this building and all other persons having an interest in said building as shown by the records of the County Recorder. It is unlawful to remove this notice until such notice is complied with.

City Building Inspector

Larimore, North Dakota



City of Larimore Ordinances

APPENDIX 10-2

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

NOTICE AND ORDER

You are hereby notified that the undersigned, building inspector of the City of Larimore, North Dakota, acting pursuant to Article 5, Chapter 10 of the Ordinances of the City of Larimore, has made an inspection of the following described building in which you are, or appear to be, interested:

You are further notified that the undersigned building inspector deems the foregoing described building to be dangerous within the meaning of Section 10.0501 of said Ordinances in the following particulars:

YOU ARE THEREFORE ORDERED TO

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

Building Inspector

Dated this _____ day of _____, 20____.



City of Larimore Ordinances

APPENDIX 10-3

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

NOTICE OF HEARING

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

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

Dated _____, 20__.

THE CITY OF _____, NORTH DAKOTA

By _____
Mayor

ATTEST:

City Auditor



City of Larimore Ordinances

CHAPTER ELEVEN

ANIMALS AND FOWL

ARTICLE 1 - General Regulations

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

ARTICLE 2 - Dogs and Cats

- 11.0201 License Required
- 11.0202 Licensing Procedure and Terms
- 11.0203 License Fee
- 11.0204 License: When Due and Payable
- 11.0205 Dog or Cat Running at Large Prohibited
- 11.0206 Disposition of Unlawful Dogs or Cats
- 11.0207 Disposition of Unclaimed Dogs or Cats
- 11.0208 Return to Owner if Known
- 11.0209 Noisy Dog or Cat Prohibited
- 11.0210 Nuisance – When
- 11.0211 Failure to Remove Feces without Delay
- 11.0212 Rabies; Notice
- 11.0213 Penalty



City of Larimore Ordinances

CHAPTER ELEVEN

ANIMALS AND FOWL

ARTICLE 1 – General Regulations

11.0101 Dangerous Animals

1. It shall be unlawful to permit any dangerous animal or vicious animal of any kind to run at large within the City. Exhibitions or parades of wild animals may be conducted only upon securing a permit from law enforcement. It shall also be unlawful to keep or harbor within the City any dangerous animal without first having obtained a permit to keep or harbor such animal from law enforcement.
2. "Dangerous animal" as the term is used in this paragraph means:
 - a) Any animal known to its owner or handler to have a tendency or disposition to attack, bite, cause injury or to otherwise endanger the safety of or be a menace to human beings or domestic animals;
 - b) Any animal that attacks, bites, or injures a human being or another domestic animal one (1) or more times;
 - c) Any animal that in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or places;
 - d) Any animal owned or harbored primarily or in part for purposes of fighting or any animal trained for fighting;
 - e) Any animal certified by a veterinarian, after observation, as posing a danger to human life or property if not kept in the manner required by this article; or
 - f) Any animal that has been determined to be dangerous by the City council or municipal court.
3. Exception:
 - a) Notwithstanding the foregoing, no animal may be declared dangerous solely due to injury or damage sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or was teasing, abusing, or assaulting the animal.
 - b) No animal may be declared dangerous solely due to injury or damage sustained by a domestic animal that at the time such injury or damage was sustained by teasing, taunting, abusing or assaulting the animal. No animal may be declared dangerous solely due to the animal protecting or defending a human being from an attack or assault in the immediate vicinity of the animal. No animal may be deemed dangerous solely due to the animal protecting or defending its young offspring.



City of Larimore Ordinances

11.0102 Permit – When Issued

The City governing body shall have discretion as to whether or not to issue a permit pursuant to Section 11.0101. 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 governing body 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.

11.0103 Killing Dangerous Animals

The members of law enforcement 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.

11.0104 Diseased Animals

1. 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 law enforcement or the health officer.

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

11.0105 Housing

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

11.0106 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 limits. 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.

11.0107 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.

11.0108 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.



City of Larimore Ordinances

11.0109 Penalty

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

ARTICLE 2 – Dogs and Cats

11.0201 License Required

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

11.0202 Licensing Procedure and Terms

1. All dogs and cats shall be registered as to sex, breed, name and addressees of owner and name of dog. Licenses shall be issued by the City on an annual basis. The person paying the license fee shall receive a receipt therefore and a license tag with which to mark the animal. It shall be the duty of the owner or keeper to cause such license tag or to be securely attached around the animal's neck and kept there at all times during the license period.
2. It shall be unlawful to counterfeit or attempt to counterfeit a City tag, or to take from any dog or cat, with the owner's permission, a tag legally placed on it, or to place a City tag upon a dog or cat other than the dog or cat for which the tag was issued.

11.0203 License Fee

The license fee shall be ten dollars (\$10.00) annually for each male dog and each spayed female dog: Ten dollars (\$10.00) for each female dog not spayed and Ten dollars (\$10.00) for each male and female cat. The owner of any spayed female dog shall present to the City 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. The penalty for violation of this ordinance is a fine in the amount of \$25.00.

11.0204 License: When Due and Payable

The license fees or renewal fees previously provided for shall become due and payable on the 1st day of January in each year and shall become delinquent on the 1st day of May in each. If the fee is not paid before the first day of May a penalty of ten dollars (\$10.00) shall be added to the license or renewal fee.



City of Larimore Ordinances

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. The penalty for the first violation of this ordinance is a fine in the amount of \$75.00. A second offense, within one year of being cited under this ordinance, at the discretion of law enforcement, may be charged pursuant to the provisions of Section 11.0213.

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 law enforcement 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), 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 law enforcement officer 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 law enforcement officer 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 within the terms of Section 11.0108. Any person wishing to file a complaint shall be required to give his name and address and sign a complaint. The penalty for violation of this ordinance is a fine in the amount of \$75.00. A second offense, within one year of being cited under this ordinance, at the discretion of law enforcement, may be charged pursuant to the provisions of Section 11.0213.

11.0210 Nuisance – When

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



City of Larimore Ordinances

11.0211 Failure to Remove Feces without Delay

It shall be unlawful for any dog or cat owner or person in possession of any dog or cat to fail to remove without delay any feces left by such dog or cat on any public street, sidewalk, other public areas or the private property of another within the corporate limits of the City of Larimore. The penalty for violation of this ordinance is a fine in the amount of \$75.00. A second offense, within one year of being cited under this ordinance, at the discretion of law enforcement, may be charged pursuant to the provisions of Section 11.0213.

11.0212 Rabies; Notice

1. If a dog or cat is believed to have rabies, or has been bitten by a dog or cat suspected of having rabies, or when not running at large bites a human being, such dog or cat shall be confined by a leash or chain on the owner's premises and shall be placed under the observation of a veterinarian at the expense of the owner for a period of ten (10) days. The owner shall notify the law enforcement of the fact that their dog or cat had been exposed to rabies or has, while not running at large, bitten a human being, and at their discretion, if not properly confined by the owner, the law enforcement officer is empowered to have such dog or cat removed from the owner's premises to a veterinary hospital and there placed under observation for a period of ten (10) days at the expense of the owner.

2. It shall be unlawful for any person knowing or suspecting a dog or cat has rabies to allow such dog or cat to be taken off their property or beyond the limits of the City without the permission of the law enforcement. Every owner, or other person, upon ascertaining a dog or cat is rabid shall immediately notify the law enforcement office or a law enforcement officer who shall either remove the dog or cat to the pound or summarily destroy it.

11.0213 Penalty

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



City of Larimore Ordinances

CHAPTER TWELVE

PUBLIC NUISANCES

ARTICLE 1 - Sanitary Nuisances

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- 12.0102 Public Nuisances Affecting Health And Safety
- 12.0103 Abatement Notice
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ARTICLE 2 - Smoke – Gases

- 12.0201 Smoke, Dust, Ashes, Cinders, Gases - A Nuisance
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- 12.0301 Radio Interference Prohibited
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- 12.0601 Infected Trees, Wood Declared Nuisance
- 12.0602 Abatement of Nuisance by Owner of Property
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- 12.0601 Penalty for Violation of Chapter



City of Larimore Ordinances

CHAPTER TWELVE

PUBLIC NUISANCES

ARTICLE 1 – Sanitary Nuisances

12.0101 Definition

1. For the purpose of this chapter, the following definitions are adopted:
 - a) "Accessory buildings" mean buildings or structures incident to the main building or structure located on or adjacent to the property.
 - b) "Ashes" mean the residue from burning of wood, coal, coke or other combustible materials.
 - c) "Garbage" means the putrescible animal or vegetable wastes from the handling, preparation, cooking and consumption of food or drink.
 - d) "Rank vegetation" means any unmanaged or unrestrained growth of grasses or weeds.
 - e) "Refuse" means all putrescible and nonputrescible solid wastes, (except body wastes) including garbage, rubbish, ashes, dead animals, solid market and industrial wastes, and discarded appliances, machines or parts.
 - f) "Rubbish" means all nonputrescible solid wastes (excluding ashes) consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glasses, bedding, crockery and similar materials.

12.0102 Public Nuisances Affecting Health And Safety

1. The following are declared to be public nuisances affecting health and safety
 - a) Unprotected excavations or holes;
 - b) Any structure, sign or vegetation which obstructs the view of oncoming traffic at intersections;
 - c) Limbs of trees which project over a public sidewalk less than eight feet or limbs of trees which project over a street or alley less than fourteen feet above the surface;
 - d) Snow and/or ice not removed from public sidewalks within twenty-four hours of the snowfall;
 - e) Production of smoke, dust, noise or noxious fumes not confined within property lines;
 - f) Animal pens, runs or shelters not maintained properly and weekly;
 - g) Improper fence material, including barbed wire, electric fencing, or any other fencing that does not have a permit from the City building official;



City of Larimore Ordinances

- h) All wires over streets, alleys, sidewalks or public grounds which are strung less than fifteen feet above the surface of the ground;
- i) Accumulations of ashes, rubbish, refuse or garbage not kept in closed containers;
- j) Items left unsecured which can become a hazard. This includes, but is not limited to, refrigerators, freezers or other appliances.
- k) Any other item or activity that is dangerous to the health, morals, safety or general welfare of the public and the City.

12.0103 Abatement Notice

Property owners shall be notified by the enforcement officer, in writing, at their last known address, of the existence of any public nuisance listed in Section 12.0102. The property owner shall be allowed eight calendar days from the date of the notice to abate the public nuisance. Should the owner fail to abate the public nuisance, the City may proceed to remedy or abate the public nuisance. The actual cost the abatement shall be charged and assessed against the property upon where the public nuisance was located. An assessment list showing the lots or tracts to be assessed with the cost against each lot or tract shall be prepared as are other special assessment lists and shall be approved by the governing body. Such assessments shall be subject to the same procedure for certification to the county auditor, payment and collection as are other special assessments under state law. (Source: North Dakota Century Code § 40-05-01.1)

12.0104 Residence – When Sewer and Water Required

1. 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.
2. 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.

12.0105 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.

12.0106 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.



City of Larimore Ordinances

12.0107 Pumping of a Private Sewage

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.

12.0108 Dead Animals

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

12.0109 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.

12.0110 Dirt, Filth, etc., in Streets and Property

It shall be unlawful for any person, firm or corporation to throw, place, deposit, leave or cause to be thrown, placed, deposited or left in any of the public streets, highways, alleys, parks or thoroughfares, or on any private premises in this City any dirt, filth, sewage, sweeping, rags, dung, garbage, compost, wastepaper, excelsior, straw, hay, leaves, brush, weeds, dry grass, shavings, barrels, boxes, wooden crates, lumber, stable manure, ashes, vegetables, slops or litter of any kind, and any place or property having left or deposited thereon any of the things or substances aforesaid is hereby declared to be a nuisance.

12.0111 Spitting

No person shall spit upon any sidewalk or upon the stairs, hallway, floor, carpet, furniture or walls of any public or office buildings in this City.



City of Larimore Ordinances

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

1. 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:

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

b) 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



City of Larimore Ordinances

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.

c) 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.

d) 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.

e) 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 – Junk, Abandoned Vehicles, Building Materials, Personal Property, Etc.

12.0401 Definitions

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

a) “Junk” shall include, without limitations, parts of machinery or motor vehicles, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal, or any other castoff material of any kind, whether or not the same could be put to any reasonable use.

b) “Junk automobiles” shall include, without limitations, 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 thirty (30) days; provided that there is excepted from this definition unlicensed but operative vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer.

c) “Abandoned vehicle” shall include, without limitations, any vehicle which has remained on private property for a period of forty-eight (48) continuous hours or more without consent of the owner or occupant of the property, or for a period of forty-eight (48) continuous hours or more after the consent of the owner or occupant has been revoked.

d) “Blighted structure” shall include without limitations, any dwelling, garage, or outbuilding, or any factory, shop, store, warehouse or any other structure or part of a structure which because of fire, wind or other natural disaster, or physical deterioration, is no longer habitable as a dwelling nor useful for the purpose for which it may have been intended.



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e) "Building materials" shall include, without limitations, 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.

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

g) "Trash and rubbish" shall include any and all forms of debris not herein otherwise classified.

12.0402 Storage of Junk, Junk Automobiles, etc., Contrary to Public Health and Safety

It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials and the maintenance of blighted structures upon any private property within the City tends to result in blighted and deteriorated neighborhoods, the increase in criminal activity, the spread of vermin and disease, and is contrary to the public peace, health, safety and general welfare of the community.

12.0403 Unlawful to Store or Accumulate Junk, Junk Automobiles, etc.

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

12.0404 Unlawful to Dismantle Automobile except on Business Premises

It shall be unlawful for any person to dismantle, cut up, 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 second hand goods or junk gatherer.

12.0405 Unlawful to Maintain Blighted Structure

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

12.0406 Unlawful to Store Building Materials except on Business Premises in Sanitary Manner

It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property except in a completely enclosed building or except where such building materials are part of the stock in trade of a business located on said property or except when such materials



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are being used in the construction of a structure on the property in accordance with a valid building permit issued by the City; provided, however, it shall be unlawful to allow any trash, construction waste or discarded materials to accumulate in such a manner as to create an unsanitary condition, become a harborage for insects or rodents or become a nuisance to adjacent properties due to blowing or scattering debris.

12.0407 Junk Automobiles or Abandoned Vehicles - When Law Enforcement May Remove

Law enforcement may remove or cause to be removed any junk automobile or abandoned vehicle, or parts of either, from any unenclosed private property after having notified in writing, the owner or occupant of such property of its intention to do so at least forty-eight (48) hours prior to such removal. Such notice shall be served personally upon the owner or occupant of the property, if occupied, or may be posted in a conspicuous place upon vacant or unoccupied property. Such junk automobiles or abandoned vehicles, or parts of either, shall be removed to the automobile pound and disposed of in accordance with law. Such removal by law enforcement shall not excuse or relieve any person of the obligation imposed by this article to keep their property free from storage or accumulation of junk automobiles or abandoned vehicles, or parts of junk automobiles or abandoned vehicles, or parts of either, nor from the penalties for violation thereof.

12.0408 Same - Disposition When Determined To Be Of No Value

Any junk automobile, abandoned vehicle or parts of either removed from unenclosed private property as provided by Section 12.0407, or coming into the possession of law enforcement by abandonment on public property in the City, which is determined by law enforcement to be of no value other than as scrap metal shall be disposed of by the City, in such a manner as to eliminate the unsightly accumulation of such worthless hulks and the hazards to public health attendant thereto with the least practicable delay.

12.0409 Penalty

Any person, firm or corporation violating any of the terms or provisions of this article shall, upon conviction, be punished by a fine of not to exceed one thousand five hundred dollars (\$1,500.00) or by imprisonment not to exceed thirty (30) days, or both such fine and imprisonment, in the discretion of the court; the court to have the power to suspend said sentence and to revoke the suspension thereof. Each day any person, firm, association or corporation shall violate any of the provisions of this article shall constitute a separate offense.

12.0410 Automobiles, Personal Property - When A Nuisance

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

12.0411 Abatement Required By Owners



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The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of this City upon which such storage is made, and also the owner, owners and/or lessees of said property involved in such storage (all of whom are hereinafter referred to collectively as “owners”) shall jointly and severally abate said nuisance by the prompt removal of said 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.

12.0412 Abatement Required, Penalty for Failure

If said owners allow said nuisance to exist or fail to abate said nuisance they, and each of them, upon conviction thereof shall be fined not less than twenty-five dollars nor more than five hundred dollars for each offense and a separate offense shall be deemed committed on each day during or on which such nuisance is permitted to exist.

12.0413 Removal and Impoundment by City

Law enforcement may remove or cause to be removed to the City Hall, or any other place within the City, selected for the purpose any personal property described in 12.0410 and may be impound and retain the same until the expense of removal, storage and impounding is paid, together with the amount of any fine, costs, bail or other claims of the City against the owner, or any other person lawfully entitled to the possession hereof.

12.0414 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 or personal property described in 12.0410 may be sold and disposed of by law enforcement 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 a newspaper published in the City or if none in the official newspaper of the County. Such notice shall specify a description of the property to be sold, the time and place of sale, and shall be signed by law enforcement. Such sale shall be held between the hours of 9:00 o'clock in the morning and 5:00 o'clock in the afternoon of the day specified in the notice. Such sale shall be held at the front door of the City Hall, or at the location of the property to be sold. Any sale may be postponed or discontinued by public announcement at the time of the sale where there are no 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 such sale. Law enforcement shall give the purchaser at such sale a receipt for the purchase of such property.

12.0415 Removal and Impoundment Proceeds

Within thirty (30) days after such sale, the person making the sale shall make out, in writing, and file with the City full report of such sale specifying the property sold, the amount received therefore, the amount of costs and expenses, and disposition made by him of the proceeds of the sale. The proceeds arising from such sale be delivered over to the City Auditor and credited to the General Fund.

ARTICLE 5 – Noxious Weeds

12.0501 Definition



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Whenever used in this ordinance “noxious weeds” shall mean and include all weeds of the kind known as Canada Thistle, sow thistle, quack grass, leafy spurge (*Euphorbia esula* or *Euphorbia virgate*), field bindweed, Russian knapweed, (*Centaurea picris*), hoary cress (*Lepidium draba*, *Lepidium repens*, and *Hymenophyllum pubescence*), dandelion (*Taraxacum officinale*), dodder, or any similar unwanted vegetation over six inches in height.

Revised 08.07.17

12.0502 Noxious Weeds, Long Grass, and Diseased and Dead Trees Prohibited.

No owner of any lot, place or area within the City or the agent of such owner, shall permit on such lot, place or area and the one-half of any road or street lying next to the lands or boulevards abutting thereon, noxious weeds, grass longer than six inches in height, diseased or dead trees, or other deleterious, unhealthful growths.

12.0503 Notice to Destroy

The City health officer or person designated by the City is hereby authorized and empowered to notify in writing the owner of any lot, place, or area within the City or the agent of such owner, to cut, destroy, and /or remove any noxious weeds, grass longer than six inches in height, diseased or dead trees, or other deleterious, unhealthful growths 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 or by law enforcement and shall give such owner or agent a minimum of five days to cut or destroy the noxious weeds, grass longer than six inches in height, diseased or dead trees, or other deleterious, unhealthful growths.

Revised 08.07.17

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, grass longer than six inches in height, diseased or dead trees, or other deleterious, unhealthful growths growing, lying or located upon the owner’s property or upon the one-half of any road or street lying next to the lands or boulevards abutting thereon, after receipt of the written notice provided for in 12.0503 or within five days after the date of such notice in the event the same is returned to the City because of inability to make delivery thereof, the health officer or person designated by the City is hereby authorized and empowered to pay for the cutting, destroying, and/or removal of such noxious weeds, grass longer than six inches in height, diseased or dead trees, or other deleterious, unhealthful growths or to order their removal by the City.

Revised 08.07.17

12.0505 Cost Assessed to Property

When the City has effected the removal of such noxious weeds, grass longer than six inches in height, diseased or dead trees, or other deleterious, unhealthful growths or has paid for their removal, the actual cost thereof, plus the thirty five dollar administrative fee, if not paid by the owner prior thereto, shall be charged and assessed against the property upon which the noxious weeds, grass longer than six inches in



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height, diseased or dead trees, or other deleterious, unhealthful growths were cut or destroyed. An assessment list showing the lots or tracts to be assessed with the cost against each lot or tract shall be prepared as are other special assessment lists and shall be approved by the governing body. Such assessments shall be subject to the same procedure for certification to the county auditor, payment and collection as are other special assessments under state law. (Source: North Dakota Century Code § 40-05-01.1)

Revised 08.07.17

ARTICLE 6 - Dutch Elm Disease

12.0601 Infected Trees, Wood Declared Nuisance

1. All species and varieties of elm trees infected with the fungus known as Dutch Elm Disease as determined by laboratory analysis by the Section of Applied Botany and Plant Pathology, North Dakota State University, or by laboratories approved by said agency, are hereby declared a public nuisance.
2. All species and varieties of elm trees that are dead or substantially dead and all dead elm wood to which the bark is-still attached, which, because of their condition, may serve as a breeding place of the European elm bark beetle and the native elm bark beetle, or any other carrier of said disease, are hereby declared a public nuisance.

12.0602 Abatement of Nuisance by Owner of Property

It shall be unlawful for any owner of any lot or parcel of land in the City to permit or maintain on any such lot or parcel of land any dead elm wood or elm tree which is a public nuisance as defined herein, and it shall be the duty of the owner of such to promptly remove and burn any such elm tree or dead elm wood under the supervision and direction of the City Engineer or other designated official or employee of the City.

12.0603 Inspection

The City is hereby authorized and empowered to enter upon any lots or parcel of land in the City at any reasonable time for the purpose of inspecting any elm trees or dead elm wood situated thereon and may remove such specimens from such trees as are required for the purpose of the laboratory analysis referred to in this section, or to determine whether such tree because it is dead, or substantially dead, may serve as a breeding place for any carrier of Dutch Elm Disease. It shall be unlawful for any person, firm or corporation to take any action to prevent the City from entering on any lot or parcel of land in the City for the purpose of such inspection or to interfere with the City Engineer or other designated official or employee of the City in the performance of any of his duties provided for under the provisions of this ordinance.

12.0604 Notice to Owner

1. If, on laboratory analysis of specimens removed from any elm tree, it is determined that such tree is a public nuisance as provided herein, or if the City determines that any dead, or substantially dead elm trees, or dead elm wood, is a public nuisance as provided herein, the City Auditor shall serve or cause to be served upon the owner of record of the lot or parcel of land on which such trees or dead elm wood is located, a written notice requiring such owner to comply with the provisions of this section. Such notice shall require the property owner to correct the violation within fifteen (15) days from the receipt of the notice or



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make arrangements acceptable to the City governing body. The notice shall specify the legal description of the premises, and if possible, the street address of the premises. The notice shall be served by certified mail, return receipt requested, addressed to the owner at his last known address or by personal service.

2. If any of said owners are absent from the City of Larimore, and their address is unknown, said notice may be given by publishing the same in the official newspaper for two successive weeks, the time for such notice beginning on the date of the first publication. The notice shall also advise the owner that if he should fail to abate the nuisance within fifteen (15) days after receipt of the notice, the nuisance shall be levied as a special assessment against the property.

12.0605 Authority of the City to Abate Nuisance Upon Owner Refusal

Upon the failure, neglect or refusal of any owner notified to correct a violation of this ordinance within fifteen (15) days after receipt of notice as provided for in 12.0604, or if the notice is returned to the City because of the inability of the United States Postal Service to make delivery, provided the notice was properly addressed and mailed to the last known address of the owner, the City Auditor and/or his/her delegate is hereby authorized to abate a public nuisance as defined herein.

12.0606 Assessment of Costs: Record of Expenses

Where the City has used its equipment and personnel to abate a nuisance, the cost of the service shall be carefully itemized by the City Auditor or other designated official or employee and the bill shall be sent to the responsible property owner. If such bill is not paid when due, the amount thereof shall be assessed against the premises on which such work is done, or for which the service is rendered, and collected and returned in the same manner as other municipal taxes are assessed, certified, collected and returned.

12.0607 Certification of Special Assessment

1. The City Auditor shall keep in his/her office a book called "Nuisance Abatement, Special Assessment Book" and shall enter the cost of the abatement of a nuisance as declared by the City Council therein of a special assessment against the lot or parcel of land from which the nuisance was abated, with the name of the owner, if known to him/her.

2. At the regular meeting of the City Council in September of each year, the City Council shall review all such assessments and hear all complaints against the same and approve the same as finally adjusted, and the City Auditor shall certify to the County Auditor a list of the lots and parcels of land specially assessed for such purpose, and the sum shall be collected as other city taxes are collected.

12.0608 Abatement of Nuisance by City

Any elm tree or dead elm wood on property owned by the City which is a public nuisance as defined in this section shall be promptly removed and burned at the expense of the City.



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ARTICLE 7 – General Penalty Provision

12.0701 Penalty for Violation of Chapter

Any person violating any of the provisions of this Chapter, for which another penalty is not specifically prescribed, upon conviction, is subject to a fine of not more than one thousand dollars (\$1,0000.00) 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

Division 1. Offenses of General Applicability

13.0101 Criminal Attempt

1. A person is guilty of criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, the person intentionally engages in conduct which, in fact, constitutes a substantial step toward commission of the offense. A “substantial step” is any conduct which is strongly corroborative of the firmness of the actor’s intent to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense, if it could have been committed had the attendant circumstances been as the actor believed them to be. (Source: North Dakota Century Code § 12.1-06-01).

2. A person who engages in conduct intending to aid another to commit an offense is guilty of criminal attempt if the conduct would establish the person’s complicity as an accomplice under N.D.C.C. § 12.1-03-01 were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense, for example, because the person has a defense of justification or entrapment. (Source: North Dakota Century Code § 12.1-06-01).

3. Criminal attempt is an offense if the crime attempted is an offense, except that whenever it is established by a preponderance of the evidence at sentencing that the conduct constituting the attempt did not come dangerously close to commission of the offense, an attempt to commit an offense shall be punished as an infraction. Criminal attempt to commit an infraction is an infraction. (Source: North Dakota Century Code § 12.1-06-01).

13.0102 Criminal Conspiracy

1. A person commits conspiracy if the person agrees with one or more persons to engage in or cause conduct which, in fact, constitutes an offense or offenses proscribed by the ordinances of this City, and any one or more of such persons does an overt act to effect an objective of the conspiracy. The agreement or the overt act must occur within the City. The agreement need not be explicit, but may be implicit in the fact of collaboration or existence of other circumstances. (Source: North Dakota Century Code § 12.1-06-04).

2. If a person knows or could expect that one with whom the person agrees, has agreed or will agree with another to effect the same objective, the person shall be deemed to have agreed with the other, whether or not the person knows the other’s identity. (Source: North Dakota Century Code § 12.1-06-04).

3. A conspiracy shall be deemed to continue until its objectives are accomplished, frustrated, or abandoned. “Objectives” includes escape from the scene of the crime, distribution of booty, and measures, other than silence, for concealing the crime or obstructing justice in relation to it. A conspiracy shall be



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deemed abandoned if no overt act to affect its objectives has been committed by any conspirator during the applicable period of limitations. (Source: North Dakota Century Code § 12.1-06-04).

4. It is no defense to a prosecution under this section that the person with whom such person is alleged to have conspired has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense, is immune from prosecution, or is otherwise not subject to justice. (Source: North Dakota Century Code § 12.1-06-04).

5. Accomplice liability for offenses committed in furtherance of the conspiracy is to be determined as provided in N.D.C.C. § 12.1-03-01. (Source: North Dakota Century Code § 12.1-06-04).

6. Conspiracy shall be subject to the same penalty as that provided for the offense or offenses constituting the objective of the conspiracy. (Source: North Dakota Century Code § 12.1-06-04).

Division 2. Integrity and Effectiveness of Government Operation

13.0103 Aiding Consummation of a Crime

A person is guilty of the offense of aiding consummation of an offense against the ordinances of this City if the person intentionally aids another to secrete, disguise, or convert the proceeds of the offense against the ordinances or otherwise profits from the offense. (Source: North Dakota Century Code § 12.1-08-04).

13.0104 Public Servant Permitting Escape

A public servant concerned in official detention, as defined by N.D.C.C. § 12.1-08-06(3) pursuant to process issued by a court, judge or magistrate is guilty of an offense against the ordinances of this City if the person negligently permits an escape. (Source: North Dakota Century Code § 12.1-08-07).

13.0105 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. Except as otherwise provided, a criminal contempt proceeding under this section shall be deemed a prosecution for an offense for the purposes of N.D.C.C. § 12.1-01 through §12.1-05, N.D.C.C. §12.1-32 and Article 5 of this Chapter.

3. 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



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was necessary to prevent repetition of misbehavior disruptive of an ongoing proceeding and that subsequent prosecution as a specific offense is warranted.

4. 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 usages of law and equity, including the power of detention.

13.0106 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. (Source: North Dakota Century Code § 12.1-10-04)

13.0107 Impersonating Officials

A person is guilty of an offense if the person falsely pretends to be a public servant, other than a law enforcement officer, of this City and acts as if to exercise the authority of such public servant. (Source: North Dakota Century Code § 12.1-13-04).

13.0108 Fleeing or Attempting to Elude a Law Enforcement Officer-Repealed effective 08.01.19

13.0109 Interference with Officers

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

13.0110 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 law enforcement 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 law enforcement 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.

Division 3. Civil Rights

13.0111 Discrimination in Public Places

1. A person is guilty of an offense if, whether or not acting under color of law, the person, by force, or threat of force or by economic coercion, intentionally:

a) Injures, intimidates, or interferes with another because of that person's sex, race, color, religion, or national origin and because the person is or has been exercising or attempting to exercise a right



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to full and equal enjoyment of any facility open to the public. (Source: North Dakota Century Code § 12.1-14-04).

b) Injures, intimidates, or interferes with another because of that person's sex, race, color, religion, or national origin in order to intimidate that person or any other person from exercising or attempting to exercise a right to full and equal enjoyment of any facility open to the public. (Source: North Dakota Century Code § 12.1-14-04).

13.0112 Preventing Exercise of Civil Rights - Hindering or Preventing Another Abiding Third Person to Exercise Civil Rights

1. A person is guilty of an offense if, whether or not acting under color of law, the person, by force or threat of force or by economic coercion, intentionally:

a) Injures, intimidates, or interferes with another because the person is or is about to exercise the person's civil rights, or because the person has exercised that person's civil rights. (Source: North Dakota Century Code § 12.1-14-05).

b) Intimidates or prevents another from aiding a third person to exercise that person's civil rights. (Source: North Dakota Century Code § 12.1-14-05).

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.

(Source: North Dakota Century Code § 12.1-17-01).

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



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performance of the conduct or the infliction of the injury. (Source: North Dakota Century Code § 12.1-17-08).

3. Assent does not constitute consent, within the meaning of this ordinance, if:
 - a) It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense and such incompetence is manifest or known to the actor;
 - b) It is given by a person who by reason of youth, mental disease or defect, or intoxication, is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature of harmfulness of the conduct charged to constitute the offense; or
 - c) It is induced by force, duress or deception.

(Source: North Dakota Century Code § 12.1-17-08)

13.0202 Sexual Assault

1. A person who knowingly has sexual contact with another person, or who causes another person to have sexual contact with that person, is guilty of an offense if:
 - a) That person knows or has reasonable cause to believe that the contact is offensive to the other person;
 - b) That person knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders that other person incapable of understanding the nature of that other persons conduct;
 - c) That person or someone with that person's knowledge has substantially impaired the victim's power to appraise or control the victim's conduct, by administering or employing without the victim's knowledge, intoxicants, a controlled substance as defined in Chapter 19-03.1 of the North Dakota Century Code, or other means for the purpose of preventing resistance;
 - d) The other person is in official custody or detained in a hospital, prison or other institution and the actor has supervisory or disciplinary authority over that other person;
 - e) The other person is a minor, fifteen years of age or older, and the actor is the other person's parent, guardian, or is otherwise responsible for general supervision of the other person's welfare; or
 - f) The other person is a minor, fifteen years of age or older, and the actor is an adult. (Source: North Dakota Century Code § 12.1-20-07).

13.0203 Harassment

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



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

(Source: North Dakota Century Code § 12.1-17-07(1)(b), (c), (d))

ARTICLE 3 – Offense Against Property

Division 1. Property Destruction and Criminal Intrusion

13.0301 Criminal Mischief – Penalty

- 1. A person is guilty of an offense if that person:
 - a) Willfully tampers with tangible property of another so as to endanger person or property; or
 - b) Willfully damages tangible property of another.
- 2. Conduct is punishable as criminal mischief under this ordinance when pecuniary loss, if intentionally caused, is not in excess of one hundred dollars (\$100.00); if recklessly caused, is not in excess of two thousand dollars (\$2,000.00); and if the damages to tangible property of another are not by means of an explosive or a destructive device.
- 3. The penalty for the offense of criminal mischief may not exceed a fine of one thousand five hundred dollars (\$1,500.00), imprisonment from thirty (30) days, or both such fine and imprisonment.
(Source: North Dakota Century Code §§ 12.1-21-05 and 40-05-06)

13.0302 Tampering with or Damaging a Public Service

- 1. A person is guilty of an offense if that person negligently causes a substantial interruption or impairment of a public communication, transportation, supply of water, gas, power or other public service by:
 - a) Tampering with or damaging the tangible property of another;
 - b) Incapacitating an operator of such service; or
 - c) Negligently damaging the tangible property of another by fire, explosive or other dangerous means. (Source: North Dakota Century Code § 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



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

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

13.0304 Criminal Trespass

1. 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. The name of the person posting the premises must appear on each sign in legible characters. (Source: North Dakota Century Code § 12.1-22-03 (3)).
2. An individual is guilty of an offense if that individual remains upon the property of another after being requested to leave the property by a duly authorized individual. (Source: North Dakota Century Code § 12.1-22-03 (4)).

Division 2. Theft and Related Offenses

13.0305 Consolidated Theft Offenses

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

13.0306 Theft of Property

1. A person is guilty of theft if that person:
 - a) Knowingly takes or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another with intent to deprive the owner thereof;



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b) Knowingly obtains the property of another by deception or by threat with intent to deprive the owner thereof, or intentionally deprives another of that person's property by deception or by threat; or

c) Knowingly receives, retains or disposes of property of another which has been stolen, with intent to deprive the owner thereof. (Source: North Dakota Century Code § 12.1-23-02).

13.0307 Theft of Services

1. A person is guilty of theft if:

a) The person intentionally obtains services, known by the person to be available only for compensation, by deception, threat, false token or other means to avoid payment for the services; or

b) Having control over the disposition of services of another to which the person is not entitled, the person knowingly diverts those services to the person's own benefit or to the benefit of another not entitled thereto.

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

13.0308 Theft of Property Lost, Mislaid or Delivered by Mistake

1. A person is guilty of theft if the person:

a) Retains or disposes of property of another when that person knows it has been lost or mislaid; or

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

13.0309 Thefts Punishable Under City Ordinances

1. Theft under 13.00306 to 13.0308 may be punished as an offense against the City ordinances if the highest value by any reasonable standard, regardless of the actor's knowledge of such value, of the property or services which were stolen by the actor, or which the actor believed that the actor was stealing, or which the actor could reasonably have anticipated to have been the property or services involved, does not exceed five hundred dollars (\$500.00) and if:

a) The theft was not committed by threat;



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- b) The theft was not committed by deception by one who stood in a confidential or fiduciary relationship to the victim of the theft;
- c) The defendant was not a public servant or an officer or employee of a financial institution who committed the theft in the course of official duties;
- d) The property stolen is not a firearm, ammunition, explosive or destructive device, or an automobile, aircraft or other motor-propelled vehicle;
- e) The property does not consist of any government file, record, document or other government paper stolen from any government office or from any public servant;
- f) The defendant is not in the business of buying or selling stolen property and the defendant does not receive, retain or dispose of the property in the course of that business;
- g) The property stolen does not consist of any implement, paper or other thing uniquely associated with the preparation of any money, stamp, bond or other document, instrument or obligation of the State of North Dakota;
- h) The property stolen does not consist of livestock taken from the premises of the owner;
- i) The property stolen does not consist of a key or other implement uniquely suited to provide access to property the theft of which would be a felony or was not stolen to gain such access.
- j) The property stolen is not a card, plate, or other credit device existing for the purpose of obtaining money property, labor, or services on credit, or is a debit card, electronic fund transfer card, code or other means of access to an account for the purpose of initiating electronic fund transfers. (Source: North Dakota Century Code § 12.1-23-05).

13.0310 Defrauding Secured Creditors – Penalty

A person is guilty of an offense if the person 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 the person makes false statements at the time of sale as to the existence of security interests if the property does not have a value exceeding five hundred dollars (\$500.00) as determined in the preamble of 13.0309.

13.0311 Retail Theft – Shoplifting

1. Presumption. Any person concealing upon that person's person or among that person's belongings, or causing to be concealed upon the person or among the belongings of another, unpurchased merchandise displayed, held, offered or stored for sale in a retail mercantile establishment and removing it to a point beyond the last station for receiving payments in that retail mercantile establishment shall be prima facie presumed to have so concealed such merchandise with the intention of permanently depriving the merchant of possession or of the full retail value of such merchandise. (Source: North Dakota Century Code § 51-21-02)



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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 or herself;
- 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 § 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 § 51-21-01)



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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 five hundred dollars (\$1,500.00), imprisonment of thirty (30) days, or both such fine and imprisonment. (Source: North Dakota Century Code § 40-05-06).

13.0312 Defenses and Proof as to Theft and Related Offenses

1. It is a defense to a prosecution under this Article that:

a) The actor honestly believed that the actor had a claim to the property or services involved which the actor was entitled to assert in the manner which forms the basis for the charge against the actor; 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. 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 the person as part of that person’s official duties or if an audit reveals a shortage or falsification of the person’s accounts.

4. 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.

5. 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.



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6. Proof of the purchase or sale of stolen property by a dealer in property, out of the regular course of business, or without the usual indicia of ownership other than mere possession, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen. (Source: North Dakota Century Code § 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 the person 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 that person’s judgment of a transaction; or
 - c) Failing to correct a false impression which the actor previously created or reinforced, or which the actor knows to be influencing another to whom the actor 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 the person transfers or encumbers in consideration for the property obtained or in order to continue to deprive another of that person’s property, whether such impediment is or is not valid, or is or is not a matter of official record; or
 - f) Using a credit card, charge plate or any other instrument which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer;
 - (1) where such instrument has been stolen, forged, revoked or canceled, or where for any other reason its use by the actor is unauthorized, and
 - (2) where the actor does not have the intention and ability to meet all obligations to the issuer arising out of that person’s 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.



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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 which the actor is not privileged to infringe without consent, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person or government might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has 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.



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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 § 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 the person’s 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 that person’s 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 the actor represents but which is calculated to harm another person in a substantial manner with respect to that person’s health, safety, business, employment, calling, career, financial condition, reputation or personal relationship.
13. 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 that person’s property or the owner initiated the scheme.



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14. “Traffic” means:

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

13.0314 Making or Uttering Slugs

1. A person is guilty of an offense if that person makes or utters a slug or slugs which do not exceed fifty dollars (\$50.00) in value with intent to deprive a supplier of property or service sold or offered by means of a coin machine or with knowledge that the person 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;

(1) to receive a coin or bill of a certain denomination or a token made for the purpose;
and

(2) in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing, or permit the acquisition of property or a public or private service.

c) “Value” of the slugs means the value of the coins, bills or tokens for which they are capable of being substituted.

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

Division 1. Riot

13.0401 Engaging in a Riot

1. A person is guilty of an offense if that person:

- a) Incites or urges five or more persons to create or engage in a riot; or
- b) Gives commands, instructions, or directions to five or more persons in furtherance of 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.



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3. A person shall be convicted under Section 13.0401(1) and Section 13.0401(2) of attempt or conspiracy to commit an offense under this section only if the person engages in the prohibited conduct under circumstances in which there is a substantial likelihood that a person's conduct will imminently produce a violation of this section. Mere presence at a riot is not an offense under this section. (Source: North Dakota Century Code § 12.1-25-01).

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 when one is immediately impending, the person disobeys a reasonable public safety order to move, disperse or refrain from specified activities in the immediate vicinity of the riot. A public safety order is an order designed to prevent or control disorder, or promote the safety of persons or property, issued by the senior law enforcement official on the scene. (Source: North Dakota Century Code § 12.1-25-04).

Division 2. Disorderly Conduct

13.0403 Disorderly Conduct

1. An individual is guilty of violating the ordinances of this City, if with intent to harass, annoy or alarm another person or in reckless disregard of the fact that another is harassed, annoyed or alarmed by the individual's behavior, the individual:

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

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



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claim, as a matter of law, and, if found valid, shall exclude evidence of the activity. (Source: North Dakota Century Code § 12.1-31-01 (2)).

Division 3. Gambling

13.0405 Gambling

1. It shall be an infraction to engage in gambling.
2. “Gambling” means risking any money, credit, deposit or other thing of value for gain, contingent, wholly or partially, upon lot, chance, the operation of gambling apparatus, or the happening or outcome of an event, including an election or sporting event, over which the person taking the risk has no control. Gambling does not include:
 - a) Lawful contests for skill, speed strength or endurance in which awards are made only to entrants or to the owners of entries; or
 - b) Lawful business transactions or other acts or transactions now or hereafter expressly authorized by law.
3. “Gambling apparatus” means any 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 § 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. (Source: North Dakota Century Code § 12.1-29-03).
2. Testimony of a person against his or her spouse shall be admissible to prove offenses under this section involving the spouse’s prostitution. (Source: North Dakota Century Code § 12.1-29-04).
3. In this section:



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- 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) A “prostitute” is a person who engages in sexual activity for hire.
- d) A “prostitution business” is a business which derives funds from prostitution regularly carried on by a person under the control, management, or supervision of another.
- e) “Sexual activity” means sexual act or sexual contact as those terms are defined in North Dakota Century Code § 12.1-20-02. (Source: North Dakota Century Code § 12.1-29-05)

Division 5. Sunday Business or Labor

13.0407 Business or Labor on Sunday- *Repealed effective 08.01.19*

Division 6. Cruelty to Animals

13.0408 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 the person 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 the person is the owner, or of which the person 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 § 36-21.2-11;
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.



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3. 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.

Division 7. Alcohol Related Offenses

13.0409 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 § 5-02-06. Any person who is nineteen years of age or older but under twenty-one years of age may be employed by the restaurant to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person twenty-one or more years of age, but may not be engaged in mixing, dispensing, or consuming alcoholic beverages. Any establishment where alcoholic beverages are sold may employ persons from eighteen (18) to twenty-one (21) years of age to work in the capacity of musicians under the direct supervision of a person twenty-one (21) or more years of age. (Source: North Dakota Century Code §§ 5-01-08 and 5-02-06).

13.0410 Misrepresentation of Age – Obligations of Licensee

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



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13.0411 Bottle Clubs Prohibited

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

13.0412 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 herself or others, to a jail for purposes of detoxification. A duly licensed physician of a local hospital or a licensed addiction counselor of a detoxification center has authority to hold that person for treatment up to seventy-two (72) hours. That intoxicated person may not be held in jail because of intoxication more than twenty-four (24) hours. An intoxicated person may not be placed in a jail unless a jailer is constantly present within hearing distance and medical services are provided when the need is indicated. Upon placing that person in a hospital, detoxification center, or jail, the peace officer shall make a reasonable effort to notify the intoxicated person's family as soon as possible. Any additional costs incurred by the City on account of an intoxicated person shall be recoverable from that person. (Source: North Dakota Century Code § 5-01-05.1).

13.0413 Use or Consumption of Intoxicating Liquor in Public

1. No alcoholic beverage, as defined in 5-01-01 of the North Dakota Century Code, shall be use or consumed on public property within the City except at such locations and times as may be authorized by permit issued by the City governing body or the director of the park district of the City as provided herein.
2. The City governing body and/or the director of the park district of the City or his or her designee may attach such terms and conditions to a permit as may be reasonably necessary to protect public health, welfare, and safety.
3. Notwithstanding the issuance of a permit, no alcoholic beverage shall be allowed in restroom facilities located on City property or within one hundred (100) feet of any swimming or playground area.
4. The provisions of this section shall not apply to the sale, purchase, consumption or possession of alcoholic beverages authorized pursuant to a permit issued by the City or the director of the park district of the City.
5. Any person violating this subsection must be assessed a noncriminal fine of fifty dollars.

13.0414 No Prosecution for Intoxication

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



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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. (Source: North Dakota Century Code § 12.1-27.1-03.1)

Division 9. Regulation of Minors

13.0416 Curfew, General Regulations – Penalty

1. As used in this Section, unless the context or subject matter otherwise requires:
 - a) “Juvenile” for the purpose of this ordinance means a person less than eighteen (18) 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 herein defined including a bona fide employer of said juvenile.
 - c) “Curfew hour” means the time of night, which is designated as 11:00 o’clock PM, except Friday and Saturday nights, which is 12:00 o’clock PM.
2. It shall be unlawful for any juvenile as herein defined to be abroad upon the streets, alleys, public grounds of the City, public places of amusement, or retail or wholesale business establishments, between the curfew hour and 5:00 o’clock AM of the following day unless accompanied by a parent as defined herein. Any juvenile violating this provision of this ordinance, in addition to the other punishments prescribed in this ordinance, shall be detained by the authorities until picked up by a parent, or delivered to a parent, as defined herein.



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

4. The provisions of this Section does not apply when the Juvenile is accompanied by the Juvenile's parent, or to any child upon emergency errands, or legitimate business directed by their parent, guardian, or the adult person having their care and custody of the Juvenile, or to any Juvenile in attendance at or traveling between that Juvenile's home and a place of legitimate employment or an event or activity sponsored by or associated with school, church or similar organization, or an organized sporting, political, theatrical, or other like event or activity within thirty minutes of the end of the work shift or the conclusion of the event or activity.

5. A person in violation of this Section shall be subject to a noncriminal punishment of a fine in the amount of \$20.00. A violation of curfew does not require an appearance in municipal court.

13.0417 Sale of Tobacco, Electronic Smoking Devices, or Alternative Nicotine Products to Minors and Use by Minors Prohibited

1. a. It is an infraction for any person to sell or furnish to a minor, or procure for a minor, cigarettes, cigarette papers, cigars, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products. As used in this subdivision, "sell" includes dispensing from a vending machine under the control of the actor.

b. It is an infraction for any person to display or offer for sale cigarettes, cigarette papers, cigars, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through a self-service display. This subdivision does not apply to a:
 - 1)Vending machine or other coin-operated machine that is permitted under N.D.C.C. § 12.1-31-03.1; or
 - 2)Self-service display that is located in a tobacco specialty store.
2. It is a noncriminal offense for a minor to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products. However, an individual under eighteen years of age may purchase and possess tobacco, electronic smoking devices, or alternative nicotine products as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or association of tobacco, electronic smoking devices, or alternative nicotine products retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority.
3. It is a noncriminal offense for a minor to present or offer to another individual a purported proof of age which is false, fraudulent, or not actually the minor's own proof of age, for the purpose of attempting to purchase or possess cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products.



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4. Pursuant to N.D.C.C. 12.1-31-03, the City may adopt an ordinance or resolution regarding the sale of tobacco, electronic smoking devices, or alternative nicotine products to minors and use of tobacco, electronic smoking devices, or alternative nicotine products by minors which includes prohibitions in addition to those in subsection 1, 2, or 3. Any ordinance or resolution adopted must include provisions deeming a violation of subsection 2 or 3 a noncriminal violation and must provide for a fee of not less than twenty-five dollars for a minor fourteen years of age or older who has been charged with an offense under subsection 2 or 3. The failure to post a required bond or pay an assessed fee by an individual found to have violated the ordinance or resolution is punishable as a contempt of court, except a minor may not be imprisoned for the contempt.
5. A minor fourteen years of age or older found to have violated subsection 2 or 3 must pay a fee of twenty-five dollars.
 - a. Any individual who has been cited for a violation of subsection 2 or 3 may appear before a court of competent jurisdiction and pay the fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the fee. This subdivision does not allow a citing officer to receive the fee or bond.
 - b. If an individual cited for a violation of subsection 2 or 3 does not choose to follow the procedures provided under subdivision a, that individual may request a hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.
 - c. The failure to post bond or to pay an assessed fee is punishable as a contempt of court, except a minor may not be imprisoned for the contempt.
6. The prosecution must prove the commission of a cited violation under subsection 2 or 3 by a preponderance of the evidence.
7. A law enforcement officer that cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.
8. A person adjudged guilty of contempt for failure to pay a fee or fine may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or to an alternative sentence or sanction including community service.
9. As used in this section:
 - a. "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term does not include any cigarette, cigar, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing, any electronic smoking device, or any product regulated as a



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drug or device by the United States Food and Drug Administration under chapter V of the federal Food, Drug, and Cosmetic Act [21 U.S.C 501 et seq.]

b. “Electronic smoking device” means any electronic product that delivers nicotine or other substances to the individual inhaling from the device, including, an electronic cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of such a product, whether or not sold separately. Electronic smoking device does not include drugs, devices, or combination products approved for sale by the United States food and drug administration, as those terms are defined in the federal Food. Drug and Cosmetic Act [52 Stat. 1040: 21 U.S.C. 301 et seq.].

c. “Self-service display” means a display that contains cigarettes, cigarette papers, cigars, snuff, or tobacco in any other form which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products and is located in an area that is openly accessible to the retailer's customers, and from which customers can readily access those products without the assistance of a salesperson. A display case that holds those products behind locked doors does not constitute a self-service display.

d. “Tobacco specialty store” means a retail store that:

1)Derives at least seventy-five percent of its revenue from the sale of cigarettes, cigarette papers, cigars, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products: and

2)Does not permit minors to enter the premises unless accompanied by a parent or legal guardian.

e. “Vending machine” means a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or other means of payment that is designed or used for vending purposes, including machines or devices that use remote control locking mechanisms.

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ARTICLE 5 – Sentencing

13.0501 Classification of Offenses

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

a) Offense, or class B misdemeanor, for which a maximum penalty of thirty (30) days imprisonment, a fine of one thousand five hundred dollars (\$1,500.00), or both, may be imposed.

b) Infraction, for which a maximum fine of one thousand dollars (\$1,000.00) may be imposed. Any person convicted of an infraction who has, within one year prior to commission of the infraction of which the person 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.



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2. 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.

3. The penalties listed shall not be construed to prohibit the utilization of the sentencing alternatives, other than a fine or imprisonment, provided by Section 12.1-32-02 of the North Dakota Century Code and Section 13.0502, for the violation of a City ordinance, nor does this section limit the use of deferred or suspended sentences. (Source: North Dakota Century Code §§ 12.1-32-01 and 40-05-06).

13.0502 Sentencing Alternatives

1. Every person convicted of an offense who is sentenced by the court must be sentenced to one or a combination of the following alternatives, unless the sentencing alternatives are otherwise specifically provided in the statute defining the offense or sentencing is deferred under subsection 4:

- a) Payment of the reasonable costs of the person's prosecution;
- b) Probation;
- c) A term of imprisonment, including intermittent imprisonment;
- d) A fine;
- e) Restitution for damages resulting from the commission of the offense;
- f) Restoration of damaged property or other appropriate work detail;
- g) Commitment to an appropriate licensed public or private institution for treatment of alcoholism, drug addiction or mental disease or defect.
- h) Commitment to a sexual offender treatment program.

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

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

2. Credit against any sentence to a term of imprisonment must be given by the court to a defendant for all time spent in custody in a jail or mental institution for the offense charged, whether that time is spent prior to trial, during trial, pending sentence, or pending appeal.

3. A court may suspend the execution of all or a part of the sentence imposed. The court shall place the defendant on probation during the term of suspension.



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4. A court, upon application or its own motion, may defer imposition of sentence. The court must place the defendant on probation during the period of deferment. An order deferring imposition of sentence is reviewable upon appeal from a verdict or judgment. In any subsequent prosecution, for any other offense, the prior conviction for which imposition of sentence is deferred may be pleaded and proved, and has the same effect as if probation had not been granted or the information or indictment dismissed under Section 12.1-32-07.1 of the North Dakota Century Code.

5. A court may, prior to imposition of sentence, order the convicted offender committed to an appropriate licensed public or private institution for diagnostic testing for such period of time as may be necessary, but not to exceed thirty days. The court may, by subsequent order, extend the period of commitment for not to exceed thirty additional days. The court may also order such diagnostic testing without ordering commitment to an institution. Validity of a sentence must not be challenged on the ground that diagnostic testing was not performed pursuant to this subsection.

6. All sentences imposed must be accompanied by a written statement by the court setting forth the reasons for imposing the particular sentence. The statement must become part of the record of the case.

7. If an offender is sentenced to a term of imprisonment, that term of imprisonment commences at the time of sentencing, unless, upon motion of the defendant, the court orders the term to commence at some other time. (Source: North Dakota Century Code § 12.1-32-02).

13.0503 Procedure for Trial of Infraction – Incidence

1. Except as provided in this subsection, all procedural provisions relating to the trial of criminal cases as provided in the statutes or rules relating to criminal procedure shall apply to the trial of a person charged with an infraction. A person charged with an infraction is not entitled to be furnished counsel at public expense nor to have a trial by jury unless the person may be subject to a sentence of imprisonment under subsection 2 of 13.0501.

2. Except as provided in North Dakota Century Code Title 12.1 or the ordinances of this City, all provisions of law and rules of criminal procedure relating to offenses shall apply to infractions, including, but not limited to, the powers of law enforcement officers, the periods for commencing action and bringing a case to trial, and the burden of proof.

3. Following conviction of an infraction, the offender may be sentenced in accordance with subsection 1 of 13.0502, except that a term of imprisonment may not be imposed except in accordance with subsection 3 of 13.0506 or subsection 2 of 13.0501.

4. If an ordinance provides that conduct is an infraction without specifically including a requirement of culpability, no culpability is required.

5. Except as provided in this Section, Sections 13.0501 or 13.0502, or as the context may otherwise indicate differentiation between the infraction classification and the offense classification, the term “offense” refers to all violations of the ordinances of this City including infractions. (Source: North Dakota Century Code § 12-32-03.1)



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13.0504 Special Sanction for Organizations

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

13.0505 Factors to be Considered in Sentencing

1. 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.

- a) The defendant's criminal conduct neither caused nor threatened serious harm to another person or that person's property.
- b) The defendant did not plan or expect that the criminal conduct would cause or threaten serious harm to another person or that person's property.
- c) The defendant acted under strong provocation.
- d) There were substantial grounds which, though insufficient to establish a legal defense, tend to excuse or justify the defendant's conduct.
- e) The victim of the defendant's conduct induced or facilitated its commission.
- f) The defendant has made or will make restitution or reparation to the victim of the conduct for the damage or injury, which was sustained.
- g) 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.
- h) The defendant's conduct was the result of circumstances unlikely to recur.
- i) The character, history and attitudes of the defendant indicate that the defendant is unlikely to commit another crime.
- j) The defendant is particularly likely to respond affirmatively to probationary treatment.
- k) The imprisonment of the defendant would entail undue hardship to the defendant or the defendant's dependents.
- l) The defendant is elderly or in poor health.
- m) The defendant did not abuse a public position of responsibility or trust.



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n) The defendant cooperated with law enforcement authorities by bringing other offenders to justice, or otherwise cooperated.

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

13.0506 Imposition of Fine – Response to Non-Payment

1. The court, in making a determination of the propriety of imposing a sentence to pay a fine, shall consider the following factors:

a) The ability of the defendant to pay without undue hardship;

b) Whether the defendant, other than a defendant organization, gained money or property as a result of commission;

c) Whether the sentence to pay a fine will interfere with the defendant's capacity to make restitution;

d) Whether a sentence to pay a fine will serve a valid rehabilitative purpose.

2. The court may allow the defendant to pay any fine or costs imposed in installments. When a defendant is sentenced to pay a fine or costs, the court shall not impose at the same time an alternative sentence to be served in the event that the fine or costs are not paid.

3. If the defendant does not pay any fine or costs imposed, or make any required partial payment, the courts, upon motion of the prosecuting attorney or on its own motion, may issue an order to show cause why the defendant shows that the default is excusable, the court may, after hearing, commit the person to imprisonment until the fine, or costs or both, are fully paid or discharged by labor as provided in North Dakota Century Code § 40-18-12.

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

13.0507 Incidents of Probation

1. Unless terminated as provided in subsection 2, the period during which a sentence to probation shall remain conditional and be subject to revocation is two (2) years.

2. The court may terminate a period of probation and discharge the defendant at any time earlier than that provided in subsection 1 if warranted by the conduct of the defendant and the ends of justice.

3. Notwithstanding the fact that a sentence to probation can subsequently be modified or revoked, a judgment, which includes such a sentence, constitutes a final judgment for all other purposes. (Source: North Dakota Century Code § 12.1-32-06.1)



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13.0508 Conditions of Probation – Revocation

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



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m) Refrain from associating with known users or traffickers in narcotics, marijuana, or other controlled substances.

n) Submit the defendant's person, place of residence, or vehicle to search and seizure by a probation officer at any time of the day or night, with or without a search warrant.

o) Serve a term of imprisonment of up to one-half of the maximum term authorized for the offense of which the defendant was convicted or one year, whichever is less.

p) Reimburse the costs and expenses determined necessary for the defendant's adequate defense when counsel is appointed for the defendant. When reimbursement of indigent defense costs and expenses is imposed as a condition of probation, the court shall proceed as provided in subsection 4 of Section 12.1-32-08 of the North Dakota Century Code.

q) Provide community service for the number of hours designated by the court.

r) Refrain from any subscription to, access to, or use of the internet.

3. When a defendant is sentenced to probation, the defendant must be given a certificate explicitly setting forth the conditions on which the defendant is being released.

4. The court, upon notice to the probationer and with good cause, may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the period for which the sentence remains conditional. If the defendant violates a condition at any time before the expiration or termination of the period, the court may continue the defendant on the existing probation with or without modifying or enlarging the conditions, or may revoke the probation and impose any other sentence that was available under Section 13.0502 at the time for the initial sentencing.

5. Jurisdiction over a probationer may be transferred from the court that imposed the sentence to another court of this state, with the concurrence of both courts. Retransfer of jurisdiction may also occur in the same manner. The court to which jurisdiction has been transferred under this subsection may exercise all powers permissible under this chapter over the defendant. (Source: North Dakota Century Code § 12.1-32-07).

13.0509 Restitution or Reparation – Procedures

1. Before imposing restitution or reparation as a sentence or condition of probation, the court shall hold a hearing on the matter with notice to the prosecuting attorney and to the defendant as to the nature and amount thereof. At or following the hearing, the court shall make determinations as to:

a) The reasonable damages sustained by the victim or victims of the criminal offense, which damages are limited to those directly related to the criminal offense and expenses actually incurred as a direct result of the defendant's criminal action;

b) The ability of the defendant to restore the fruits of the criminal action or to pay monetary reparations, or to otherwise take action to restore the victim's property;



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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.

2. 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.

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

13.0510 Merger of Sentences – Sentencing for Multiple Offenses

1. Unless the court otherwise orders, when a person serving a term of commitment is committed for another offense or offenses, the shorter term or the shorter remaining term shall be merged in the other term. When a person on probation or parole for an offense committed in this city is sentenced for another offense or offenses, the period still to be served on probation or parole shall be merged in any new sentence of commitment or probation. When the court merges sentences under this subsection it shall forthwith furnish the penal facility in which the defendant is confined under sentence with authenticated copies of its sentence, which shall cite the sentences being merged. If the court has imposed a sentence, which is merged pursuant to this subsection, it shall modify such sentence in accordance with the effect of the merger.

2. A defendant may not be consecutively sentenced to more than one year. (Source: North Dakota Century Code § 12.1-32-11).

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 five hundred dollars (\$1,500.00) or by imprisonment not to exceed thirty (30) days, or both. (Source: North Dakota Century Code § 40-05-06).



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CHAPTER FOURTEEN

FRANCHISE

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APPENDIXES

APPENDIX 14-1: Acceptance of Electric Franchise

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CHAPTER FOURTEEN

FRANCHISE

ARTICLE 1 – Grant of Franchises

14.0101 Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- a) “City” is the City of Larimore, North Dakota.
- b) “Company” is the grantee of rights under this franchise.
- c) “Governing body” is the City council of the City of Larimore, North Dakota.
- d) “Person” is any person, firm, partnership, association, corporation, company or organization of any kind.

14.0102 Power to Grant

1. The City governing body, by ordinance, may grant to any person, association, firm, corporation, or limited liability company, a franchise or special right, or privilege, to operate, or do business in the City, but such franchise shall be subject to the provisions of this article. (Source: North Dakota Century Code § 40-05-01 (57))

2. There is hereby granted by the City to the company the right and privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and fixtures necessary for the maintenance and operation in the City of Larimore. The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive, and the City reserves the right to grant a similar use of said streets, alleys, public ways, and places, to any person at any time during the period of this franchise.

14.0103 Indemnification

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



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14.0104 Compliance with Applicable Laws and Ordinances

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

14.0105 Service Standards.

The company shall maintain and operate its system and render efficient service in accordance with the rules and regulations as are, or may be set forth by the governing body as provided for in subsection 12 of this article, or by the Public Service Commission of the State of North Dakota.

14.0106 Company Rules

The company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the company to exercise its rights and perform its obligations under this franchise, and to assure an uninterrupted service to each and all of its customers. Provided, however, that such rules, regulations, terms and conditions shall not be, in conflict with the provisions hereof, or of laws of the State of North Dakota.

14.0107 Conditions of Street Occupancy - Use

1. Use. All transmission and distribution structures, lines and equipment erected by the company within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.
2. Restoration. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the company shall, at its own cost and expense and in a manner approved by the City engineer, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before said work was commenced, and shall maintain the restoration in an approved condition for a period of three (3) years.
3. Relocation. In event that at any time during the period of this franchise the City shall lawfully elect to alter or change the grade of any street, alley or other public way, the company, upon reasonable notice by the City, shall remove, re-lay, and relocate its poles, wires, cables, underground conduit manholes and other fixtures at its own expense.
4. Placement of Fixtures. The company shall not place poles or other fixtures where the same will interfere with any utility fixture, water hydrant or main, and all such poles or other fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on said alley, and then in such a manner as not to interfere with the usual travel on said streets, alleys and public ways; provided the company will place its poles or fixtures underground when other utility services are so located unless permitted to do otherwise by the City engineer where extreme hardship would result or an underground installation is not workable.



City of Larimore Ordinances

5. Temporary Removal of Wire for Building Moving. The company shall, on the request of any person holding a building-moving permit issued by the City, temporarily raise or lower its wires to permit the moving of building.

The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the company shall have the authority to require such payment in advance. The company shall be given not less than forty-eight hours advance notice to arrange for such temporary wire changes

14.0108 Tree Trimming.

The company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the company, all trimming to be done under the supervisions and direction of the City and at the expense of the company.

14.0109 Prohibited – Discriminatory Practices.

The company shall not, as to rates, charges, service facilities, rules, regulations, or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage provided that nothing in this franchise shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer within such classification would be entitled.

14.0110 Extension Policy.

The company shall file with the City auditor its extension policy and amendments thereto, which shall be available to inspection by the public.

14.0111 Transfer – Approval Required.

The company shall not sell or transfer its plant or system to another, nor transfer any rights under this franchise to another without the approval of the City Council. Provided, that no 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 facts of such sale, assignment or lease, accepting the terms of the franchise, and agreeing to perform all the conditions thereof.

14.0112 City Rights in Franchise.

1. The right is hereby reserved to the City to adopt, in addition to the provisions herein contained and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of police power, provided that such regulations, by ordinance or otherwise, shall be reasonable, and not in conflict with the rights herein granted, and shall not be in conflict with the laws of the State of North Dakota.

2. The City shall have the right, during the life of this franchise, free of charge, where aerial construction exists, of maintaining upon the poles of the company within the City limits wire and pole



City of Larimore Ordinances

fixtures necessary for a police and fire alarm system; such wires and fixtures to be constructed and maintained to the satisfaction of the company and in accordance with its specifications.

3. Compliance with company rules. The City in its use and maintenance of such wires and fixtures, shall at all times comply with the rules and regulations of the company so that there may be a minimum danger of contact or conflict between the wires and fixtures of the company and the wires and fixtures used by the City.

4. Liability. The City shall be solely responsible for all damage to person or property arising out of the construction or maintenance of said wires and fixtures authorized by this section and shall save the company harmless from all claims and demands whatsoever arising out of the attachment, maintenance, change or removal of said wires and fixtures to the poles of the company. In case of rearrangement of the company plant or removal of poles or fixtures the City shall save the company harmless from any damage to person or property arising out of the removal or construction of its wires or other fixtures.

5. The City shall have the right to supervise all construction or installation work performed subject to the provisions of this article and to make such inspections as it shall find necessary to insure compliance with governing ordinances.

6. Upon the revocation of this franchise by the governing body, or at the end of the term of this franchise the City shall have the right to determine whether the company shall continue to operate and maintain its distributing system pending the decision of the City as to the future maintenance and operation of such system.

14.0113 Payment to the City.

The company's payment to the City for the privilege of operating its system under a franchise will be determined by the governing body of the City at the time the franchise is negotiated between the City and the company.

14.0114 Rates.

Rates charged by the company for service hereunder shall be fair and reasonable and filed with the governing body inspection.

14.0115 Records and Reports.

1. The City shall have access at all reasonable hours to all of the company's plans, engineering and service records. The following records and reports shall be filed with the City auditor and in the local office of the company.

2. Company Rules and Regulation. Copies of such rules, regulations, terms and conditions adopted by the company for the conduct of its business.

3. Gross Revenue. An annual summary report showing gross revenues received by the company from its operation within the City during the preceding year and such other information as the City shall request with respect to properties and expenses related to the company's service within the City.



City of Larimore Ordinances

14.0116 Terms of Franchise.

The franchise and rights herein granted shall take effect and be in force from and after the final passage hereof, as required by law, and upon filing of acceptance by the company with the City auditor, and shall continue in force and effect for a term of twenty (20) years after the effective date of this franchise. Provided, acceptance is filed within thirty (30) days.

14.0117 Insurance

Any grantee of a franchise by the City shall carry and keep in force a public liability policy of insurance, insuring the grantee of the franchise and the City against any and all liability, of not less than two hundred fifty thousand dollars (\$250,000.00) for any one person, property damage, personal injury, or death, and five hundred thousand dollars (\$500,000.00) for any single occurrence resulting in property damage, personal injury, or death. The City may demand proof of such insurance coverage through an insurance company licensed to do business in the State of North Dakota. (Source: North Dakota Century Code § 32-12.1-03)

14.0118 Applicability of Chapter 14

This Chapter shall apply to any franchise granted by the City after the effective date of these Revised Ordinances. Any and all franchises granted and in operation prior to the date of the adoption of these Revised Ordinances shall remain in full force and effect and are not amended in any way by the enactment of these Revised Ordinances. Any and all franchises granted and in operation prior to the date of the adoption of these Revised Ordinances are attached to this Chapter in the Appendix. The governing body and company, with the consent of the other, may modify the franchise to satisfy the requirements of these Revised Ordinances.



APPENDIX 14-1

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City of Larimore Ordinances

ACCEPTANCE OF ORDINANCE NO. 11.0201

CITY OF LARIMORE, GRAND FORKS COUNTY, NORTH DAKOTA

ACCEPTANCE OF ELECTRIC FRANCHISE:

WHEREAS, the City Council of the City of Larimore, Grand Forks County, North Dakota, on the 11th day of March, 2011, passed and adopted Ordinance No. 11.0201, entitled:

AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, D/B/A XCEL ENERGY ITS SUCCESSORS AND ASSIGNS, PERMISSION TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN IN THE CITY OF LARIMORE, NORTH DAKOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, LINES, FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY, ITS INHABITANTS, AND OTHERS, AND TO USE THE PUBLIC WAYS AND PUBLIC GROUNDS OF THE CITY FOR SUCH PURPOSES.

NOW THEREFORE, Northern States Power Company, a Minnesota corporation for itself and its successors and assigns, does hereby accept all the terms and conditions of said Ordinance.

IN WITNESS WHEREOF, Northern States Power Company, a Minnesota corporation has caused this document to be executed in its corporate name by its duly authorized persons and its corporate seal to be hereto affixed this 22nd day of March, 2001.



Attest:

Northern States Power Company, a Minnesota corporation



Patrice D. Blaescr
Assistant Secretary

By: 

Laura McCarten, Authorized Agent
Regional Vice President, NSP - Minnesota



APPENDIX 14-2

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City of Larimore Ordinances



ELECTRIC FRANCHISE ORDINANCE ORDINANCE NO. 11.0201

CITY OF LARIMORE, GRAND FORKS COUNTY, NORTH DAKOTA

AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, D/B/A XCEL ENERGY ITS SUCCESSORS AND ASSIGNS, PERMISSION TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN IN THE CITY OF LARIMORE, NORTH DAKOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, LINES, FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY, ITS INHABITANTS, AND OTHERS, AND TO USE THE PUBLIC WAYS AND PUBLIC GROUNDS OF THE CITY FOR SUCH PURPOSES.

THE CITY COUNCIL OF THE CITY OF LARIMORE, GRAND FORKS COUNTY, NORTH DAKOTA, ORDAINS:

SECTION 1. DEFINITIONS.

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

City. The City of Larimore, County of Grand Forks, State of North Dakota.

City Utility System. Facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting or other forms of energy.

Commission. The North Dakota Public Service Commission, or any successor agency or agencies, including an agency of the federal government which preempts all or part of the authority to regulate electric retail rates now vested in the North Dakota Public Service Commission.

Company. Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy its successors and assigns.

Electric Facilities. Electric transmission and distribution towers, poles, lines, guys, anchors, conduits, fixtures, and necessary appurtenances owned or operated by Company for the purpose of providing electric energy for public use.

Notice. A written notice served by one party on the other party referencing one or more provisions of this Ordinance. Notice to Company shall be mailed to the General Counsel, 414 Nicollet Mall, 5th Floor, Minneapolis, MN 55401. Notice to the City shall be mailed to the City Auditor, 122 Main Street West, Larimore, ND 58251. Either party may change its respective address for the purpose of this Ordinance by written notice to the other party.

Public Ground. Land owned by the City for park, open space or similar purpose, which is held for use in common by the public.



City of Larimore Ordinances

Public Way. Any street, alley, walkway or other public right-of-way within the City.

SECTION 2. ADOPTION OF FRANCHISE.

2.1 **Grant of Franchise.** City hereby grants Company, for a period of 20 years from the date passed and approved by the City, the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain Electric Facilities in, on, over, under and across the Public Ways and Public Grounds of City, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance and to the further provisions of this franchise agreement.

2.2 **Effective Date; Written Acceptance.** This franchise agreement shall be in force and effect from and after passage of this Ordinance, its acceptance by Company, and its publication as required by law. The City by Council resolution may revoke this franchise agreement if Company does not file a written acceptance with the City within 90 days after publication.

2.3 **Service and Rates.** The service to be provided and the rates to be charged by Company for electric service in City are subject to the jurisdiction of the Commission of this State or its successor agency.

2.4 **Publication Expense.** The expense of publication of this Ordinance will be paid by City and reimbursed to City by Company.

2.5 **Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

SECTION 3. LOCATION, OTHER REGULATIONS.

3.1 **Location of Facilities.** Electric Facilities shall be located, constructed and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System previously installed therein. Electric Facilities shall be located on Public Grounds as determined by the City. Company's construction, reconstruction, operation, repair, maintenance and location of Electric Facilities shall be subject to permits if required by separate ordinance and to other reasonable regulations of the City to the extent not inconsistent with the terms of this franchise agreement. Company may abandon underground Electric Facilities in place, provided at the City's request, Company will remove abandoned metal or



City of Larimore Ordinances

concrete encased conduit interfering with a City improvement project, but only to the extent such conduit is uncovered by excavation as part of the City improvement project.

3.2 Street Openings. Company shall not open or disturb any Public Way or Public Ground for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee. Permit conditions imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities or work. Company may, however, open and disturb any Public Way or Public Ground without permission from the City where an emergency exists requiring the immediate repair of Electric Facilities. In such event Company shall notify the City by telephone to the office designated by the City as soon as practicable. Not later than the second working day thereafter, Company shall obtain any required permits and pay any required fees.

3.3 Restoration. After undertaking any work requiring the opening of any Public Way or Public Ground, Company shall restore the same, including paving and its foundation, to as good a condition as formerly existed, and shall maintain any paved surface in good condition for two years thereafter. The work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Way or Public Ground in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.4, but the City hereby waives any requirement for Company to post a construction performance bond, certificate of insurance, letter of credit or any other form of security or assurance that may be required, under a separate existing or future ordinance of the City, of a person or entity obtaining the City's permission to install, replace or maintain facilities in a Public Way.

3.4 Avoid Damage to Electric Facilities. Nothing in this Ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Electric Facilities while performing any activity.

3.5 Notice of Improvements. The City must give Company reasonable notice of plans for improvements to Public Ways or Public Ground where the City has reason to believe that Electric Facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the improvements, (ii) the Public Ways and Public Grounds upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Way or Public Ground is involved, the order in which the work is to proceed. The notice must be given to Company a sufficient length of time in advance of the actual commencement of the work to permit Company to make any necessary additions, alterations or repairs to its Electric Facilities.

3.6 Shared Use of Poles. Company shall make space available on its poles or towers for City fire, water utility, police or other City facilities whenever such use will not interfere with the use of such poles or towers by Company, by another electric utility, by a telephone utility, or by any cable television company or other form of communication company. In addition, the City shall pay for any added cost incurred by Company because of such use by City.



SECTION 4. RELOCATIONS.

4.1 Relocation of Electric Facilities in Public Ways. If the City determines to vacate a Public Way for a City improvement project, or at City's cost to grade, regrade, or change the line of any Public Way, or construct or reconstruct any City Utility System in any Public Way, it may order Company to relocate its Electric Facilities located therein if relocation is reasonably necessary to accomplish the City's proposed public improvement. Except as provided in Section 4.3, Company shall relocate its Electric Facilities at its own expense. The City shall give Company reasonable notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of any Public Way or to construct or reconstruct any City Utility System. If a relocation is ordered within five years of a prior relocation of the same Electric Facilities, which was made at Company expense, the City shall reimburse Company for non-betterment costs on a time and material basis, provided that if a subsequent relocation is required because of the extension of a City Utility System to a previously unserved area, Company may be required to make the subsequent relocation at its expense. Nothing in this Ordinance requires Company to relocate, remove, replace or reconstruct at its own expense its Electric Facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.

4.2 Relocation of Electric Facilities in Public Ground. City may require Company at Company's expense to relocate or remove its Electric Facilities from Public Ground upon a finding by City that the Electric Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Ground.

4.3 Projects with Federal Funding. Relocation, removal, or rearrangement of any Company Electric Facilities made necessary because of the extension into or through City of a federally-aided highway project shall be governed by the provisions of North Dakota Century Code, Chapter 24-01-41, as supplemented or amended. It is understood that the right herein granted to Company is a valuable right. City shall not order Company to remove or relocate its Electric Facilities when a Public Way is vacated, improved or realigned because of a renewal or a redevelopment plan which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such relocation and the loss and expense resulting therefrom are first paid to Company, but the City need not pay those portions of such for which reimbursement to it is not available.

4.4 No Waiver. The provisions of this franchise apply only to facilities constructed in reliance on a franchise from the City and shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Way or Public Ground was established, or Company's rights under state or county permit.

SECTION 5. TREE TRIMMING.

Company may trim all trees and shrubs in the Public Ways and Public Grounds of City to the extent Company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of any Electric Facilities installed hereunder, provided that Company shall save the City harmless from any liability arising therefrom, and subject to permit or other reasonable regulation by the City.



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SECTION 6. INDEMNIFICATION.

6.1 Indemnity of City. Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Electric Facilities located in the Public Ways and Public Grounds. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner of acts reasonably deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination.

6.2 Defense of City. In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City; and Company, in defending any action on behalf of the City shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

SECTION 7. VACATION OF PUBLIC WAYS.

The City shall give Company at least two weeks prior written notice of a proposed vacation of a Public Way. Except where required for a City improvement project, the vacation of any Public Way, after the installation of Electric Facilities, shall not operate to deprive Company of its rights to operate and maintain such Electric Facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under North Dakota Century Code, Chapter 40-39.

SECTION 8. CHANGE IN FORM OF GOVERNMENT.

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

SECTION 9. FRANCHISE FEE.

For the privilege of operating its electrical system and for the use of the streets, alleys, and public grounds of the City during the term of this franchise, the Company shall, at the option of and when directed to do so by subsequent action of the City Council, pay to the City a franchise fee equal to two percent of the Company's gross revenues, as defined herein. Said franchise fee shall become effective on bills based on meter readings taken 60 days after the date Company has been notified in writing of the City Council's action and shall be payable to the City quarterly on the last day of the month following each quarter of the calendar year or that part thereof after such fee



City of Larimore Ordinances

becomes effective. Company will add to its effective rate schedules a surcharge of two percent to be imposed on all bills for which payment is included as gross revenues to reimburse Company for the cost of said franchise fee. "Gross revenues" means all sums, excluding the added charge, received during the term of this franchise by Company from the sale of electricity within the corporate limits of the City provided, however, that there shall be expressly excluded from the computation of gross revenues all sums received by the Company for electricity sold for municipal street and highway lighting, municipal water pumping, municipal sewage pumping, municipal traffic signal, and municipal fire siren services. At the time of each payment, Company shall file with the City Auditor a statement showing the amount of its gross revenues for the preceding quarter as a basis for calculation of the sum of money due. If, during the term of this franchise, the City shall grant a franchise for or allow natural gas service to be provided within the City, the franchise fee payable to City from Company hereunder shall be suspended during any period of time that a gross revenues fee of like amount is not collected for such services.

SECTION 10. PROVISIONS OF ORDINANCE.

10.1 Severability. Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

10.2 Limitation on Applicability. This Ordinance constitutes a franchise agreement between the City and Company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

SECTION 11. AMENDMENT PROCEDURE.


Either party to this franchise agreement may at any time propose that the agreement be amended to address a subject of concern and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Auditor within 90 days after the date of final passage by the City of the amendatory ordinance.



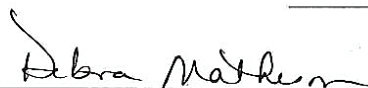
City of Larimore Ordinances

SECTION 12. PREVIOUS FRANCHISES SUPERSEDED.

This franchise supersedes any previous electric franchise granted to Company or its predecessor.

Passed and approved: March 11, ~~2010~~ ²⁰¹¹ 

Mayor

Attest: 

City Clerk



APPENDIX 14-3

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City of Larimore Ordinances

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AN ORDINANCE GRANTING A FRANCHISE TO MIDCONTINENT COMMUNICATIONS TO CONSTRUCT AND OPERATE A CABLE COMMUNICATIONS SYSTEM IN THE CITY OF Larimore, ND; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE

The City of Larimore, ND ordains:

FINDINGS

In the review of MIDCONTINENT COMMUNICATIONS ("Grantee"), the City of Larimore, ND ("Grantor") makes the following findings:

- 1.) The Grantee's technical ability, financial condition, legal qualifications, and character were considered and approved in a public proceeding after due notice and a reasonable opportunity to be heard; and
- 2.) Grantee's plans for operating the cable communications system were considered and found adequate and feasible in a public proceeding after due notice and a reasonable opportunity to be heard.

SECTION 1. SHORT TITLE AND DEFINITIONS

1.) Short Title. This Franchise Ordinance shall be known and cited as the Cable Communications Ordinance.

2.) Definitions. For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The word "may" is directory and discretionary and not mandatory.

- (a) "Cable Service" means the one-way transmission to Subscribers of Video Programming, or other programming service, and Subscriber interaction, if any, which is required for the selection of such Video Programming or other programming service.
- (b) "Cable System" or "System" Shall have the meaning ascribed to it in federal law.
- (c) "Council" means the Larimore, ND Council.
- (d) "Franchise" means an initial authorization, or renewal thereof issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a Cable System or other MVPD facility.
- (e) "Franchise Area" means the area within the legal boundaries of the Grantor.
- (f) "Grantee" is MIDCONTINENT COMMUNICATIONS, its agents and employees, lawful successors, transferees, or assignees.
- (g) "Grantor" is the City of Larimore, ND.
- (h) "Multichannel Video Program Distributor" or "MVPD" means a person such as, but



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not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, an OVS provider, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming.

- (i) "Open Video Services" or "OVS" means any video programming Services provided to any person by a Franchisee certified by the FCC to operate an Open Video System pursuant to Section 47 U.S.C. 573, as may be amended, regardless of the Facilities used.
- (j) "Person" is any person, firm, partnership, association, corporation, company, or other legal entity.
- (k) "Standard Installation" means any residential installation which can be completed using a drop of one hundred fifty (150) feet or less.
- (l) "Street" means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by Grantor.
- (m) "Subscriber" means any Person who lawfully receives Cable Service.
- (n) "Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

SECTION 2. GRANT OF AUTHORITY AND GENERAL PROVISIONS

1.) Franchise Required. It shall be unlawful for any Person to construct, operate, or maintain a Cable System or MVPD facility or to provide Cable Service, Video Programming or other MVPD services, including OVS, in the Grantor without a Franchise authorizing the same, unless applicable federal or State law prohibits the Grantor's enforcement of such a requirement.

2.) Grant of Franchise. This Franchise is granted pursuant to the terms and conditions contained herein.

3.) Grant of Nonexclusive Authority.

- (a) The Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the Streets, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in Franchise Area, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in Franchise Area of a Cable System.
- (b) This Franchise shall be nonexclusive, and Grantor reserves the right to grant a similar use of said Streets to any MVPD at any time during the period of this Franchise, provided, however, that any additional Franchise shall contain the same terms and conditions as this Franchise in order that one MVPD is not granted a competitive advantage over another. In the event a MVPD commences operation without a Franchise or is granted a Franchise to operate by the Grantor, the terms and conditions of which do not comply with this Ordinance, the Grantee shall have the right either (i) to opt in to the competitor's Franchise by providing ten (10) days prior written notice to the Grantor; or (ii) to petition the



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Grantor for modifications to its Franchise, in which case the Grantor shall work in good faith with a Grantee to review and adopt modifications which the Grantee deems necessary, review and approval by Grantor shall not be unreasonably denied.

- (c) Before granting an additional franchise, the Grantor shall give written notice to Grantee of any new application, identifying the applicant for such additional Franchise and providing at least thirty (30) days prior notice of the date, time, and place at which the Grantor shall consider and/or determine whether such additional Franchise should be granted.
- (d) Every Franchise shall apply to the entire service area of the Grantor, as it exists now or may later be configured.
- (e) In the event Grantor grants one or more additional Franchises or one or more non-franchised MVPD's commence providing Cable Service in the Grantor, Grantee shall have the right to terminate or reduce the term of this Franchise in its sole discretion.
- (f) Neither City nor Grantee may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any other ordinance and this Franchise, the Franchise shall control.

4.) Franchise Term. This Franchise shall be in effect for a period of five (5) years from the date of acceptance by Grantee and renewable for an additional five (5) years, unless terminated sooner by written notice to the Grantee at least 30 days prior to the expiration of the initial term or renewal term.

5.) Territorial Area Involved. This Franchise is granted for the corporate boundaries of Grantor, as it exists from time to time. In the event of annexation by Grantor, or as development occurs, any new territory shall become part of the area covered, provided, however, that Grantee shall not be required to extend service beyond its present System boundaries unless there is a minimum of twenty-five (25) homes per cable mile as measured from the last fiber node or terminating amplifier

6.) Written Notice. All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of Grantee or Grantor's Administrator of this Franchise:

If to Grantor: City of Larimore, ND PO Box 766
122 W. Main Street Larimore, ND 58251

If to Grantee: Midcontinent Communications
Attn: Dan Nelson
3901 N. Louise Avenue
Sioux Falls, S.D. 57107-0112

Such addresses may be changed by either party upon notice to the other party given as provided in this Section.



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SECTION 3. CONSTRUCTION STANDARDS

- 1.) Conditions on Street Use.
 - (a) Grantee shall obtain all required permits from Grantor before commencing any construction upgrade or extension of the System.
 - (b) The Grantor shall impose no permit fees upon Grantee.
 - (c) If at any time during the period of this Franchise Grantor shall elect to alter, or change the grade or location of any Street, alley or other public way, the Grantee shall, at its own expense, upon reasonable notice by Grantor, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System. If Grantor reimburses other occupants of the Street, Grantee shall be likewise reimbursed.
 - (d) The Grantee shall, on request of any Person holding a moving permit issued by Grantor, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the Person requesting the same, and the Grantee shall be given not less than ten (10) days advance notice to arrange for such temporary changes.
 - (e) The Grantee shall have the authority to trim any trees upon and overhanging the Streets, alleys, sidewalks, or public easements of Grantor so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee.
 - (f) Nothing contained in this Franchise shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities.
 - (g) In areas where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground. In any area where one or more public utilities are aerial, Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.

SECTION 4. SYSTEM PROVISIONS

- 1.) Operation and Maintenance of System. The Grantee shall render effective service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible.
- 2.) Lockout Device. Upon the request of a Subscriber, Grantee shall provide by sale or lease a Lockout Device.

SECTION 5. OPERATION AND ADMINISTRATION PROVISIONS

- 1.) Indemnification of Grantor.
 - (a) Grantee shall indemnify, defend, and hold harmless Grantor, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all liability, damages, and penalties which they may legally be required to



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pay as a result of the exercise of the Franchise, except claims covered by worker's compensation insurance or any claims arising from or related to Grantor's negligence. Nothing in this Franchise relieves a Person from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee's facilities while performing work connected with grading, regarding, or changing the line of a Street or public place or with the construction or reconstruction of a sewer or water system.

- (b) In order for Grantor to assert its rights to be indemnified, defended, and held harmless, Grantor must with respect to each claim:
 - (1) Promptly notify Grantee in writing of any claim or legal proceeding which gives rise to such right;
 - (2) Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and
 - (3) Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to paragraph two (2) above.

2.) Insurance. Grantee shall maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy, including contractual liability coverage, in protection of Grantor in its capacity as such. The policies of insurance shall be in the sum of not less than Three Hundred Thousand Dollars (\$300,000) for personal injury or death of any one Person, and One Million Dollars (\$1,000,000) for personal injury or death of two or more Persons in any one occurrence, Three Hundred Thousand Dollars (\$300,000) for property damage to any one Person and One Million Dollars (\$1,000,000) for property damage resulting from any one act or occurrence.

SECTION 7. REVOCATION, ABANDONMENT, AND SALE OR TRANSFER

1.) Grantor's Right to Revoke. Grantor reserves the right to revoke, terminate or cancel this Franchise, if after strictly following the procedures required by Section 7.2 herein, it is determined that Grantee has violated any material provision of this Franchise and has failed to substantially cure said violation.

2.) Procedures for Revocation.

- (a) Grantor shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of the notice in which to substantially cure the violation or to provide adequate assurance of performance. Together with the notice required herein, Grantor shall provide Grantee with written findings of fact which are the basis of the revocation.
- (b) Grantee shall be provided the right to a public hearing affording due process before the Grantor Council prior to revocation, which public hearing shall follow



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the sixty (60) day notice provided in paragraph (a) above. Grantor shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.

- (c) After the public hearing and upon written determination by Grantor to revoke the Franchise, Grantee may appeal said decision with an appropriate state or federal court or agency.
- (d) During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.
- (e) Upon satisfactory correction by Grantee of the violation upon which said notice was given, the initial notice shall become void.

3.) Sale or Transfer of Franchise. No sale or transfer of this Franchise shall take place without the written approval of the Grantor, which approval shall not be unreasonably withheld. All of the rights, privileges, obligations, duties, and liabilities created by this Franchise shall pass to and be binding upon the successor or assign of Grantee. Said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure indebtedness.

SECTION 8. MISCELLANEOUS PROVISIONS

- 1.) Franchise Renewal. Any renewal of this Franchise shall be done in accordance with applicable federal law.
- 2.) Amendment of Franchise Ordinance. Grantee and Grantor may agree, from time to time, to amend this Franchise. Such written amendments may be made at any time.
- 3.) Marketing. Grantee shall have the right to conduct direct selling in the Franchise Area, including door to door sales, notwithstanding any peddler or solicitor laws or regulations to the contrary.
- 4.) Severability. If any section, sentence, clause or phrase of this Franchise is for any reason held to be invalid, unenforceable, or unconstitutional by a decision of any authority or court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Franchise and the remainder shall remain in full force and effect.
- 5.) Community Bulletin Board Channel. The Grantee will provide at no cost to the Grantor, one (1) community bulletin board channel ("Community BB Channel") solely for noncommercial government use. Grantee shall have no responsibility whatsoever for the operation or administration of the Community BB Channel and nothing herein shall be construed as requiring Grantee to purchase equipment, add staff or incur any cost to provide the Community BB Channel. The Grantee, in its sole discretion shall determine the initial and any subsequent channel position for the Community BB Channel.

SECTION 9. PUBLICATION, EFFECTIVE DATE AND ACCEPTANCE

- 1.) Publication: Effective Date. If applicable, this Franchise shall be published in



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accordance with law. The effective date of this Franchise shall be the date of acceptance by Grantee in accordance with the provisions of Section 9.2.

2.) Acceptance.

- (a) Grantee shall accept this Franchise by executing same. Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein.

Passed and adopted this 4th day of May, 2009.

CITY OF LARIMORE, ND

By: Debra Matheson

Its: Auditor

GRANTEE ACCEPTANCE

This Franchise is accepted and we agree to be bound by its terms and conditions.

MIDCONTINENT COMMUNICATIONS

Dated: 5/13/09

By: Nancy A. Boyd

Midcontinent Communications Investor, LLC,
Managing Partner of Midcontinent Communications

Its: Director of Revenue Assurance



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CHAPTER FIFTEEN

BUILDING CODES

ARTICLE 1 – General Building Code

- 15.0101 Adoption of Code
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- 15.0403 Duties of Building Inspector
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ARTICLE 5 – Moving Buildings

- 15.0501 Application
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- 15.0503 Deposits for Expense to City
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ARTICLE 6 – Fences

- 15.0601 Definition
- 15.0602 General Requirements for Residential Districts
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ARTICLE 7 – Noncompliance

- 15.0701 Defective Work
- 15.0702 Penalties



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CHAPTER FIFTEEN

BUILDING CODE

ARTICLE 1 – General 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. (Source: North Dakota Century Code chapter 54-21.3)

15.0102 Amendments, Deletions, Additions to Code

Sec. _____ shall be amended to read as follows:

Sec. _____ shall be deleted.

Sec. _____ shall be added to this code to read as follows:

15.0103 Clarification of Code

1. For the purpose of clarifying the Building Code adopted above.
 - a) “Municipality” or “City” shall mean the City of Larimore
 - b) Any reference to fire limits within the City shall mean the fire limits set out in Chapter Four.
 - c) Whenever the Building Code shall conflict with the zoning ordinances, or other provisions of this chapter, the zoning ordinances or other provisions shall govern.

15.0104 Establishment of the Office of Building Inspector

The office of Building Inspector is hereby created and the executive official in charge shall be known as a Building Inspector. The Building Inspector shall be appointed by the Mayor and such appointment shall be confirmed by at least three fourths of all member of the City council. During temporary absence or disability of the Building Inspector the appointing authority shall designate an acting Building Inspector. The Building Inspector may appoint the City Supervisor to act as her/his duly appointed representative to act with the same authority and powers as the Building Inspector upon confirmation by at least three fourths of all members of the City council.

Revised 04.03.17



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15.0105 Duties of Building Inspector

1. The Building Inspector shall:

- a) Devote such time as may become necessary to properly discharge the duties of her/his office. She/he shall receive applications required by this code, issue permits and furnish the prescribed certificates. She/he shall examine premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction is prosecuted safely. She/he shall enforce all provisions of the building code.
- b) She/he shall, when requested by proper authority, or when the public interest so requires, make an investigation in connection with matters referred to in the building code and render written reports on the same. To enforce compliance with law, to remove illegal or usage conditions, to secure the facilities in buildings and structures, she/he shall issue such notices or orders as may be necessary.
- c) Inspections required under the provisions of the building code shall be made by the Building Inspector or her/his duly appointed assistant. The Building Inspector may accept reports of inspectors of recognized inspection services, after investigation of their qualification and reliability. No certificate called for by any provision of the building code shall be issued on such reports unless the same are in writing and certified to by a responsible officer of such service.
- d) The Building Inspector shall keep comprehensive records of applications, of permits issued, of or orders issued. She/he shall retain on file, in the City Auditor's office, copies of required plans and all documents relating to building work, so long as any part of the building or structure to which they relate may be in existence. All such records shall be opened to the public inspection for good and sufficient reason at the stated office hours, but shall not be removed from the office of the City Auditor without the City Building Inspector's written consent.
- e) The Building Inspector will make written reports to the City governing body once each month, including statements or permits and certificates issued, and orders promulgated.

15.0106 Cooperation of Other Officials

All City employees, Fire, Police and Health Department's officials shall make written reports to the Building Inspector of all buildings or structures which are, may be, or are suspected to be "dangerous buildings" as defined in Chapter Ten. The Building Inspector may request and shall receive so far as may be necessary, in the discharge of her/his duties, the assistance and cooperation of other officials of the City.

15.0107 Right of Entry

The Building Inspector, or her/his duly appointed representative, in the discharge of her/his official duties and upon proper identification and notice to the building owner of just cause, shall have authority to enter into any building, structure or premises at any reasonable hour. If the Building Inspector is refused access, she/he, with the assistance of the City Attorney, may make a complaint under oath to the district court, stating the facts in the case, so far as they have knowledge thereof and seek a proper inspection warrant or other remedy provided by law to secure entry. No owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request



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is made as herein provided, to promptly permit entry therein by the Building Inspector for the purpose of inspection and examination pursuant to this article.

Revised 04.03.17

15.0108 Permit Required

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

15.0109 Building Permit Fees

1. Fees under the Building Code shall be as follows:

| Table 1-A Building Permit Fees | |
|---------------------------------------|---|
| Total Valuation | Fee |
| Up to \$5,000.00 | No permit required unless excavation is necessary. If excavation is require a permit fee of \$25.00 is applicable |
| \$5,000.01 to \$25,000.00 | \$25.00 for the first \$5,000.00 plus \$2.50 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00. |
| \$25,000.01 to \$50,000.00 | For residential, \$75.00 for the first \$25,000.00 plus \$2.00 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00. For commercial, \$100.00 for the first \$25,000.00 plus \$2.00 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00. |
| \$50,000.01 to \$100,000.00 | For residential, \$125.00 for the first \$50,000.00 plus \$1.50 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00. For commercial, \$150.00 for the first \$50,000.00 plus \$1.50 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00. |
| \$100,000.01 to \$500,000.00 | For residential, \$200.00 for the first \$100,000.00 plus \$1.00 for each additional \$4,000.00, or fraction thereof, to and including \$500,000.00. For commercial, \$225.00 for the first \$100,000.00 plus \$1.25 for each additional \$2,000.00, or fraction thereof, to and including \$500,000.00. |
| \$500,000.01 to \$1,000,000.00 | For residential, \$300.00 for the first \$500,000.00 plus \$1.00 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00. For commercial, \$475.00 for the first \$500,000.00 plus \$1.00 for each additional \$1,000.00, or fraction |



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| | |
|-----------------------|---|
| | thereof, to and including \$1,000,000.00. |
| \$1,000,000.01 and up | For residential, \$800.00 for the first \$1,000,000.00 plus \$1.00 for each additional \$1,000.00, or fraction thereof. For commercial, \$1,250.00 for the first \$1,000,000.00 plus \$1.00 for each additional \$1,000.00, or fraction thereof. |

2. Starting work without a permit. Where work for which a permit is required is started or proceeded with prior to obtaining the permit, the fees herein specified due from the permit applicant shall be doubled, provided that such doubled fee shall not be less than \$100.00. Payment of a doubled fee shall not relieve the permit applicant from fully complying with the requirements of the City in the execution of the work nor from any other penalties prescribed herein.

Revised 06.01.20

15.0110 Building Permit Expiration

Every permit issued pursuant to this Chapter shall expire and become null and void if:

- a) The building or work authorized by the permit is not commenced within one (1) year from the date of the permit, or
- b) The building or work authorized by the permit has not been completed within two (2) years from the date the permit was issued.

Building permits issued in response to any action taken by the City governing body, in response to a health or safety concern, shall expire, once the required corrective action is completed, however, any corrective action must be completed within the time frame set by the City governing body.

15.0111 Exemption to the Requirement to Pay a Building Permit Fee

Notwithstanding the requirements of Larimore Municipal Ordinance §§ 15.0108 and 15.0109(2), the City recognizes an emergency exemption to the requirement to pay a building permit fee if the following conditions are satisfied:

1. An application for a building permit is completed for necessary damage repairs;
2. The application notes that the necessary damage repairs was the result of a natural cause, being a severe storm, blizzard, or other natural disaster;
3. The application for a building permit is completed within sixty (60) days of the cause of the damage;
4. The damage repairs are limit to:
 - a. "Like for like" repairs,
 - b. Cosmetic repairs such as re-carpeting or painting,
 - c. Minor repair work such as sheetrock replacement, replacement of lights or other electrical fixtures, replacement of furnace or air conditioner units,
 - d. Asphalt shingles that replace existing asphalt shingles;
 - e. Replacing or installing an overhead garage door on a garage;
 - f. Repairing or replacing siding, not to exceed 64 square feet;
 - g. Repairing or replacing exterior trim components including wood fascia, trim, and soffits; and,



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- h. A non-structural exterior deck repair that is limited to the existing deck boards;
- 5. All major repairs are subject to Larimore Municipal Ordinance § 15.0109, but the required fee may be waived at the Larimore City Council.

Revised 10.06.20

ARTICLE 2 – Plumbing Code

15.0201 Adoption of State Plumbing Code

The State Plumbing Code, 1980 Edition, together with any amendments thereto, 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, a copy of which is on file with the City auditor, and the same are hereby adopted as fully as if set out at length herein and all plumbing work in the City shall comply with said code.

15.0202 Enforcement of Chapter Provisions

The City shall have the authority to inspect 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 of the City for the purpose of enforcing the provisions of this Chapter, and the City may from time to time make such rules and regulations as may be appropriate for the execution of the same. The City is under no obligation to inspect any particular project and by so doing does not warrant work done by private contractors.

15.0203 Changes in Existing Installations

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

15.0204 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 connection to storm-water sewer, and all construction of private sanitary drains, and cesspools, within the corporate limits shall be undertaken and executed only by a master plumber, or other persons, as have obtained a general license for such work, together with a permit for each separate job, provided that the tapping of water mains and the placing of corporate cocks therein shall be done only by City employees or under their supervision.

15.0205 Sanitary Requirements

It shall be unlawful for any person to construct any building intended for human habitation, including dwelling, tenements, apartments, hotels, lodging houses, dormitories, or club houses, or intended



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to be used as a theatre or assembly hall, or as an office building, shop or factory or to convert any building to such use, or to occupy any building for such purpose, unless the same be connected to both the sewer and water systems of the City, where such building or other structure is situated within the City limits and unless they are installed within the building or other structure, in accordance with the provisions of this article, proper sanitary fixtures, together with the plumbing necessary thereto, in accordance with the State Plumbing Code, 1980 edition, together with any amendments thereto.

ARTICLE 3 – Electrical Code

15.0301 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. (See North Dakota Century Code § 43-09-21)

15.0302 Work by Licensed Electrician

All electrical work hereafter to be installed in any commercial or rental building within the corporate City limits shall be undertaken and executed only by persons holding a master electrician's license or a Class B electrician's license where applicable as provided in the laws of the State of North Dakota. (See North Dakota Century Code § 43-09-14)

15.0303 Property Owners

1. Property owners who are self-wiring or doing their own electrical work must comply with the following before any electrical work commences:

- a) Notify the state electrical board office of intent to self-wire.
- b) Must own and occupy the residential property or farmstead where the electrical work will be done.
- c) Review plans or drawings depicting wiring to be done with the local electrical inspector.
- d) State certification and inspection are required.

(See Laws, Rules and Wiring Standards of North Dakota, § 24-02-01-19)

15.0304 Electrical Inspection Fees

Electrical inspection fees are set, and payable to the state of North Dakota in accordance with the Laws, Rules and Wiring Standards of North Dakota, § 24-02-01-19 Inspection fees



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15.0305 Supervision of Work

The City shall have the right to inspect all electrical installations now existing or hereafter to be made, altered or repaired in or upon any building in the City to insure that such work complies with this article and City ordinances. The City is not obligated to inspect, and inspection by the City does not warrant the work done by private contractors.

15.0306 Powers

The City Building Inspector shall have the right during reasonable hours to enter any building in the discharge of her/his duties, or for the purpose of making any inspection or test of the electrical installation or electrical equipment, contained therein and is hereby empowered to order the discontinuance of electrical service to any electric wiring or equipment found to be defectively installed or otherwise not in conformity with the provisions of this article until such wiring, or equipment shall have been corrected as directed by the City Building Inspector.

15.0307 Existing Installations

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

ARTICLE 4 — Property Maintenance Code

15.0401 Adoption of the Code

The International Property Maintenance Code, 2006 edition, chapters 1 through 8, promulgated, approved and published by the International Code Council shall be and the same is hereby adopted, as hereinafter amended, and incorporated herein by reference. A printed copy of such international property maintenance code and a printed copy of such code as amended shall be filed in the office of the city auditor including all additions and amendments to said code made affecting local conditions in the city, the same as though the code and additions thereto were herein set forth in full and the said regulations are hereby adopted for use and application in the city.

This document shall set forth the rules establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures; providing the standards for supplied utilities and facilities and other physical things and conditions essential to insure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures, except as modified elsewhere.

15.0402 Amendments, Deletions, Additions to Code

The following amendments to the International Property Maintenance Code, 2006 edition, hereinabove adopted, are hereby made and incorporated in such International Property Maintenance Code as follows:

- A. Section 101.1 Title. These regulations shall be known as the Property Maintenance Code of the City of Larimore, hereinafter referred to as "this code."
- B. Section 101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential rental structures and all existing rental premises and constitute minimum



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requirements and standards for rental premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

- C. Section 102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Fuel Gas Code, International Mechanical Code and the ICC Electrical Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of the City of Larimore Zoning Ordinances.
- D. Section 103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be set by resolution of the City Council.
- E. Section 104.3 Inspections. Upon a written complaint from a resident of the City of Larimore or based upon the code official's own observations, an inspection of a rental premises may be conducted. The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority. Upon completion of a successful inspection, the code official shall issue a certificate of occupancy.
- F. Section 106.3. Delete words "misdemeanor or"
- G. Sections 106.4. Any persons who shall violate a provision of this code, or failure to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues, following the time frame specified in the notice of violation properly served, shall be deemed a separate offense.
 - (1) The penalties for violations of this code are as follows:
 - i. First violation \$50.00
 - ii. Second Violation \$100.00
 - iii. Third Violation \$200.00
 - iv. Fourth Violation, in addition to the above mentioned penalties, results in the immediate withdrawal of the building's certificate of occupancy until the successful re-inspection of the premises.
 - (2) If the violation is not corrected within the time frame specified in the notice of violation, the code official may issue a second citation. The penalties for violations of this code that are not corrected within the time frame specified in the notice of violation are as follows:
 - i. First violation \$250.00
 - ii. Second Violation \$300.00
 - iii. Third Violation \$400.00

For good cause, the code official may extend the time frame set for compliance in the notice of violation. Such requests must be made in writing, delivered to the code official at the Larimore



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City Hall. The filing of such a request does not automatically stay the time specified in the notice of violation. The decision to grant or deny an extension may be appealed in the same manner as the notice of violation.

- H. Section 111.1 Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Larimore City Council, provide that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.
- I. Section 111.2 Membership of the board. Delete entire section.
- J. Section 111.3 Notice of Meeting. The Larimore City Council shall take up the issue of appeal on notice from the code official at the next regularly scheduled Larimore City Council meeting.
- K. 111.4 Open hearing. All appeals before the Larimore City Council shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the Larimore City Council.
- L. 111.4.1 Procedure. The Larimore City Council shall allow the appellant and the code official to make opening statements, present evidence and make closing arguments. The order of which shall be:
 - (1) Appellant's opening statement;
 - (2) Code official's opening statement;
 - (3) Appellant's evidence;
 - (4) Code official's evidence;
 - (5) Appellant's closing argument; and,
 - (6) Code official's closing argument.

The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.
- M. 111.5 Postponed hearing. When the full Larimore City Council is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.
- N. 111.6 Board decision. The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the Larimore City Council.
- O. 111.6.1 Records and copies. The decision of the Larimore City Council shall be recorded. Copies shall be furnished to the appellant and to the code official.
- P. 111.6.2 Administration. The code official shall take immediate action in accordance with the decision of the Larimore City Council.
- Q. 111.7 Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate district court for review. Application for review shall be made in the manner and time required by the North Dakota Century Code.



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- R. 111.8 Stays of enforcement. Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Larimore City Council.
- S. 302.4 Weeds. Delete entire section.
- T. 304.14 Insect screens. Delete entire section.
- U. 602.3 Heat supply. Delete entire section.
- V. 602.4 Occupiable work spaces. Delete entire section.

15.0403 Duties of Building Inspector

The Building Inspector shall:

- a) Devote such time as may become necessary to properly discharge the duties of her/his office. She/he shall receive applications required by this code, issue permits and furnish the prescribed certificates. She/he shall examine premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction is prosecuted safely. She/he shall enforce all provisions of the property maintenance code.
- b) She/he shall, when requested by proper authority, or when the public interest so requires, make an investigation in connection with matters referred to in the property maintenance code and render written reports on the same. To enforce compliance with law, to remove illegal or usage conditions, to secure the facilities in buildings and structures, she/he shall issue such notices or orders as may be necessary.
- c) Inspections required under the provisions of the property maintenance code shall be made by the Building Inspector or her/his duly appointed assistant. The Building Inspector may accept reports of inspectors of recognized inspection services, after investigation of their qualification and reliability. No certificate called for by any provision of the property maintenance code shall be issued on such reports unless the same are in writing and certified to by a responsible officer of such service.
- d) The Building Inspector shall keep comprehensive records of applications, of permits issued, of or orders issued. She/he shall retain on file, in the City Auditor's office, copies of required plans and all documents relating to building work, so long as any part of the building or structure to which they relate may be in existence. All such records shall be opened to the public inspection for good and sufficient reason at the stated office hours, but shall not be removed from the office of the City Auditor without the City Building Inspector's written consent.
- e) The Building Inspector will make written reports to the City governing body once each month, including statements or permits and certificates issued, and orders promulgated.

15.0404 Cooperation of Other Officials

All City employees, Fire, Police and Health Department's officials shall make written reports to the Building Inspector of all buildings or structures which are, may be, or are suspected to be "dangerous buildings" as defined in Chapter Ten. The Building Inspector may request and shall receive so far as may be necessary, in the discharge of her/his duties, the assistance and cooperation of other officials of the City.



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15.0405 Right of Entry

The Building Inspector, or her/his duly appointed representative, in the discharge of her/his official duties and upon proper identification and notice to the building owner of just cause, shall have authority to enter into any building, structure or premises at any reasonable hour. If the Building Inspector is refused access, she/he, with the assistance of the City Attorney, may make a complaint under oath to the district court, stating the facts in the case, so far as they have knowledge thereof and seek a proper inspection warrant or other remedy provided by law to secure entry. No owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Building Inspector for the purpose of inspection and examination pursuant to this article.

Revised 04.03.17

ARTICLE 5 - Moving Buildings

15.0501 Application

1. A person seeking issuance of a permit hereunder shall file an application for such permit with the Building Inspector. The application shall be made in writing, upon forms provided by the Building Inspector, and shall be filed in the office of the City auditor. The application shall set forth;

- a) A description of the building proposed to be moved, giving street number, construction, materials, dimensions, number of rooms and condition of exterior and interior.
- b) A legal description of the lot from which the building is to be moved, giving the lot, block and tract number, if located within the City;
- c) A legal description of the lot to which it is proposed such building be moved, giving lot, block and tract number, if located in the City;
- d) The portion of the lot to be occupied by the building when moved;
- e) The highways, streets and alleys over, along or across which the building is proposed to be moved;
- f) Proposed moving date and hours;
- g) Any additional information which the Building Inspector shall find necessary to make a fair determination of whether a permit should issued.

2. The owner of the building to be moved shall file with the application sufficient evidence that the building and lot from which it is to remove are free of any entanglements and that all taxes and any City charges against the same are paid in full.



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3. The applicant, if other than the owner, shall file with the application, a written statement or bill of sale signed by the owner, or other sufficient evidence that she/he is entitled to move the building, and a copy of the building permit authorizing removal of building to new location.

4. The application shall be accompanied by a permit fee in the following amount:

| Table 1-A Application Fees | |
|--------------------------------------|------------|
| Total Square Foot of Building | Fee |
| Up to 100 sq. ft | \$25.00 |
| 101 sq. ft to 200sq. ft | \$50.00 |
| 201 sq. ft to 300 sq. ft | \$75.00 |
| 301 sq. ft to 400 sq. ft | \$100.00 |
| 401 sq. ft to 500 sq. ft | \$125.00 |
| 501 sq. ft to 600 sq. ft | \$150.00 |
| 601 sq. ft to 700 sq. ft | \$175.00 |
| 701 sq. ft to 800 sq. ft | \$200.00 |
| Over 801 sq. ft | \$250.00 |

15.0502 Notice and Hearing on Application

1. Upon receipt of any application to move a building exceeding 300 square feet, either into the City or from one place to another place within the City, the Building Inspector shall require the deposit of the building permit fee, plus the estimated expense of giving the notices hereinafter provided for.

a) Notice of filing of such application shall be given by the City Building Inspector by publication in the official newspaper once each week for two successive weeks, the last publication to be not less than two days before the meeting of the City council at which time the same will be considered. Said notices shall state the name of the owner of the building, the street address where such building is located, the address to which it is proposed to move it, the extent and nature of any proposed remodeling and the use to which the building will be put, the time and place when the application will be considered by the City council; at least ten days before such hearing, a copy of such notice shall be sent by registered or certified mail to the owners of the property adjoining the property upon which said building or structure is to be moved and to the owner of wires or other impediments and temporary removal which will be necessary, and shall be posted upon the lot or lots to which it is proposed to move such building.

b) At the time and place set forth in such notice, the City council shall hear all evidences and argument presented for and against the proposed moving. If such evidence discloses to the satisfaction of the City council that the building, before being moved, is worth not less than fifty per cent of the replacement of such building, that the building, when moved and repaired or altered, the user of, will conform to the zoning ordinances the fire ordinances and all other ordinances of the City, that the moving can be accomplished without damage to the street, pavement, trees, public utilities and other property and that when the removal and repairs and alterations have been completed the said building's architectural appeal and functional plan will not be so at variance with other buildings in the new neighborhood as to cause undue, serious and substantial depreciation of other properties in the new neighborhood, the City council will order



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

15.0503 Deposits for Expense to City

Upon receipt of an application, it shall be the duty of the Building Inspector to procure from the City engineer an estimate of the expense that will be incurred in removing and replacing any electric wires, street lamps, or pole lines belonging to the City or any other property of the City, the removal and replacement of which will be required by reason of the moving of the building through the City, together with the cost of materials necessary to be used in making such removals and replacements. Prior to issuance of their permit the Building Inspector shall require of the applicant a deposit of a sum of money equal to twice the amount of the estimated expense.

15.0504 Duties of Building Inspector

1. The Building Inspector shall inspect the building and the applicant's equipment to determine whether the standards for issuance of a permit are met. The Building Inspector shall refuse to issue a permit if she/he finds:
 - a) That any application or any fee or deposit requirement has not been complied with;
 - b) That the person who is to move the house is not a licensed house mover;
 - c) That the building is too large to move without endangering persons or property in the City;
 - d) That the building is in such state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons and property in the City;
 - e) That the building is structurally unsafe or unfit for the purpose for which moved, if the removal location is in the City;
 - f) That the applicant's equipment is unsafe and that persons and property would be endangered by use;
 - g) That zoning or other ordinances would be violated by the building in its new location;
 - h) That for any other reason persons or property in the City would be endangered by the moving of the building;
 - i) That a permit to remove the building to the new location has not been granted.



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2. The Building Inspector shall deposit all fees and deposits with the City treasurer. Upon her/his refusal to issue a permit the Building Inspector shall return to the applicant all deposits. After the building has been removed, the Building Inspector shall furnish the City council with a written statement of all expenses incurred in removing and replacing all property belonging to the City and of all material used in the making or the removal and replacement, together with a statement of all damage caused to or inflicted upon property belonging to the City. Provided, however, that if any wires, pole lamps, or other property are not located in conformity with governing ordinances, the permittee shall not be liable for the cost of removing the same. The City council shall authorize the Building Inspector to return to the applicant all deposits after the City treasurer deducts the sum sufficient to pay all of the costs and expenses and for all damage done to property of the City by reason of the removal of the building. Permit fees deposited with the application shall not be returned. The Building Inspector shall procure from the City engineer a list of designated streets over which the building may be moved; the Building Inspector shall have a list approved by the law enforcement of the City and shall reproduce the list upon the permit in writing. In making their determination, the City engineer and the chief of police shall act to assure maximum safety to person and property in the City and to minimize congestion and traffic hazards on public streets.

15.0505 Duties of Permittee

1. Every permittee under this ordinance shall:

a) Whenever any person has obtained permission from the City of Larimore to remove a dwelling house or other building or structure the height of which exceeds the height of any electric telephone or telegraph wires or cable strung along or across said streets or highways for the purpose of furnishing the inhabitants thereof with heat, light, power, telephone, or telegraph service, the person so obtaining said permit for such removal of said building or other structure shall notify the person, firm, or corporation owning or operating said wires to provide a passageway for said building or structure through, said wires or cables at a certain designated time.

b) Such notice shall be in writing and shall describe the location of the wires, or cable through which the structure is to be moved and shall be served upon said person, firm, or corporation owning or operating said wires or cables at least 24 hours before said structure is to be removed through said wire, or cable.

c) The person, firm or corporation owning or operating said wire, or cables shall upon receiving said notice estimate as near as possible the actual expense for labor and materials in cutting, removing or adjusting said wires, or cables, in order to properly allow the passage of said structure and shall notify the parties serving said notice of said required expense, and the said party desiring said wires, or cables to be cut removed or adjusted shall deposit with said firm, person or corporation owning or operating said wires, or cables the amount required which shall be in any event more than the actual expense for removing or adjusting such wire or cables.

d) Notify the law enforcement of the City of the proposed time of moving at least twelve hours before the time set for such moving.

e) Move a building only over streets designated for such use in the written permit.



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- f) Notify the Building Inspector in writing of a desired change in moving date and hours as proposed in the application.
- g) Notify the Building Inspector in writing of any and all damage done to the property belonging to the City within twenty-four hours after the damage or injury has occurred.
- h) Cause red lights to be displayed during the nighttime on every side of the building, while standing on a street, in such manner as to warn the public of the obstruction, and shall at all times erect and maintain barricades across the streets in such manner as to protect the public from damage or injury by reason of the removal of the building.
- i) Remove the building from the City streets after one day of such occupancy unless an extension is granted by the City council.
- j) Comply with the building code, the fire zone, the zoning ordinance and all other applicable ordinances and laws upon relocating the building in the City.
- k) Pay the expense of a traffic officer ordered by the Building Inspector to accompany the movement of the building to protect the public from injury.
- l) Remove all rubbish and materials and fill all excavations to existing grade at the original building site so that the premises are left in a safe and sanitary condition.
- m) See that the sewer line is plugged with a concrete stopper, the water shut off, and the meter returned to the City water office. Permittee shall notify the gas and electric service companies to remove their service.

15.0506 Enforcement

The Building Inspector, law enforcement and the City engineer shall enforce and carry out the requirements of this ordinance. The permittee shall be liable for any expense; damage or costs in excess of deposited amounts or securities, and the City attorney shall prosecute an action against the permittee in a court of competent jurisdiction for the recovery of such excessive amounts. The City shall proceed to do the work necessary to leaving the original premises in a safe and sanitary condition, where permittee does not comply with the requirements of this ordinance, and the cost thereof shall not be charged against the general deposit.

ARTICLE 6 – Establishing and Maintaining a Fence

15.0601 Definitions.

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

- a) The term “Fence” shall mean any vertical structure, other than a building or plant material, which is for the purpose of obstructing visual observation or for the purpose of obstructing



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pedestrian, automotive or animal movement or for the purpose of beautification and which is attached to the ground or to a building, but excluding retaining walls.

15.0602 General Requirements for Residential Districts.

Fences shall be permitted in any residential yard, provided, that any fence, outdoor wall, screen or shrubbery located in the front yard within two feet of the front lot line shall not be in excess of forty-two (42) inches in height above ground level, and further provided that the location of such fences shall be in accordance with the vision clearance requirements set out in this article.

15.0603 Vision Clearance at Intersections.

1. No shrubs, trees, bushes or other plant material shall be planted, maintained, or allowed to grow and no fence, except an open fence (having an unobstructed opening if fifty (50) percent or greater) or a fence having a maximum height of two (2) feet, shall be erected, placed or maintained within the triangular area formed by the intersection of two streets and a line connecting points on said line which are twenty-five (25) feet from the intersection of said streets so as to not hinder vision in the vicinity of an intersection of two streets.

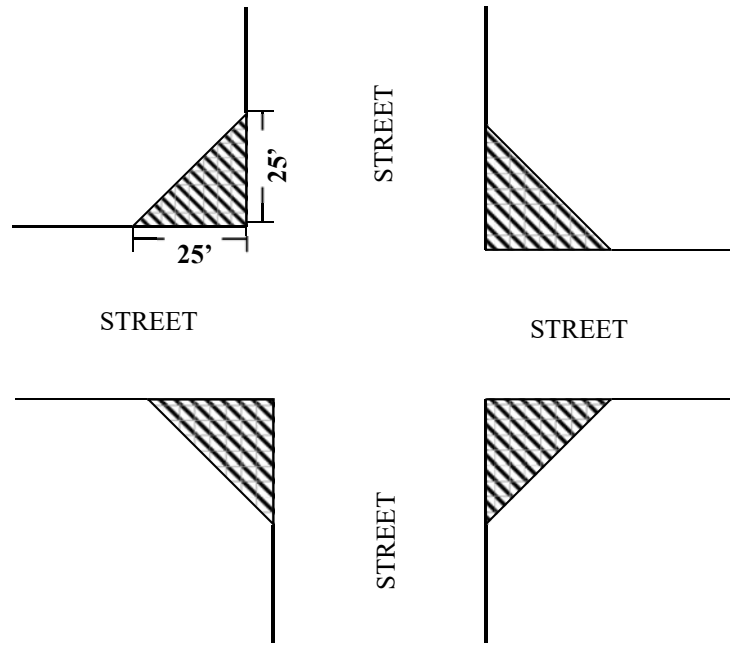
- a) Fences, screens, and shrubbery in any yard along any driveway shall not exceed forty-two (42) inches in height above the ground level within two (2) feet of the front lot line and shall not interfere or obstruct the view of drivers backing out of the driveway on to any street or alley.
- b) Fences along the side and rear yard lot lines shall not exceed eight (8) feet in height above the ground level.
- c) Fences located within the "buildable area" on a lot shall not exceed eight (8) feet in height above ground level.
- d) All fences shall be constructed of wood, metal, plastics, fiberglass or masonry materials, shall be structurally sound, and shall have a neat and finished appearance. No fence shall use barbed wire or electrically charged fence materials in its construction.
- e) Fences must be maintained in good repair. The building and zoning inspector may order any dilapidated, dangerous or nonconforming fence to be removed.
- f) The provisions of this article shall not apply to retaining walls.

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2. The following drawing depicts the triangular area within which no building, fence, wall, structure, or other obstruction may be placed or maintained except an open fence having an unobstructed opening of fifty (50) percent or greater or a fence having a maximum height of two (2) feet:



15.0604 Permit Required.

1. No fence shall be erected, constructed or moved until a fence building permit shall have been procured from the City of Larimore. Application for a permit for a fence shall include a sketch of the lot, the location of any building on the lot, the proposed fence, and sufficient dimensions to accurately locate these features. It shall also include the type of materials to be used to build the fence. The fence building permit shall be based on the City of Larimore Permit Fee schedule.
2. It is recommended that any fence erected, constructed or moved should not be erected, constructed or moved within two (2) feet of the property line to allow the owner of said fence the ability to maintain the fence.

ARTICLE 7 - Noncompliance

15.0701 Defective Work

The Building Inspector is hereby given authority to order the removal and replacement, or the alteration of any installation or portion thereof for which a permit has been obtained, should she/he upon inspection of the same find it to have been executed in violation of any of the provisions of this chapter. It shall thereafter be unlawful for any person in any way to use such installation, or to supply utilities thereto, until the same shall have been made to conform to the provisions of this article. No permit for any other work shall be issued to any applicant therefore who has executed any work in violation of the provisions of this chapter until such work shall have been made to conform thereto.



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15.0702 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 one thousand dollars (\$1,000.00) for each violation.



CHAPTER SEVENTEEN

PERSONNEL POLICIES

ARTICLE 1 – Personnel Policies and Procedures

- 17.0101 Adoption of Policies
- 17.0102 Amendments to Policies
- 17.0103 Definitions.
- 17.0104 Purpose
- 17.0105 Compensation Relationships – Policy
- 17.0106 Compensation Philosophy Statement
- 17.0107 Employee Committee
- 17.0108 Employee Complaints
- 17.0109 Records and Information to Be Furnished
- 17.0110 Records Public
- 17.0111 Mediation - Open Records Exemption - Retaliation Prohibition
- 17.0112 Veterans' preferences

ARTICLE 2 – Violations

- 17.0201 Prohibited Conduct
- 17.0202 Penalty



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:

17.0103 Definitions.

1. For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

a) “City” is the City of Larimore, North Dakota.

b) “Governing body” is the City council of the City of Larimore, North Dakota.

c) “Classified Service” is the positions held by employees of the City of Larimore based on their job descriptions.

17.0104 Purpose.

1. The general purpose of this chapter is to establish a unified system of human resource management for the classified service of the City of Larimore based upon merit principles, governing the position classification, pay administration. All appointments and promotions to positions in the City classified service must be made without regard to sex, race, color, national origin, age, religious affiliations, or political opinions on the basis of merit and fitness.

2. This chapter shall not be construed to for a contract between the City and its employees.

17.0105 Compensation Relationships - Policy.

It is the policy of the City to establish equitable, nondiscriminatory compensation relationships among all positions and classes within classification plan.



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17.0106 Compensation Philosophy Statement.

1. The compensation program for classified City employees should be designed to recruit, retain, and motivate a quality workforce for the purpose of providing efficient and effective services to the citizens of the City. For purposes of this section, "compensation" is defined as base salary and related fringe benefits.
2. The compensation program will:
 - a) Consider the needs of the City as an employer and the tax effect on the residents of the City
 - b) Provide a competitive employee compensation package based on job content evaluation, internal equity, and external competitiveness balanced by the City's fiscal conditions.
 - c) Be based on principles of fairness and equity.
 - d) Include a consistent compensation policy which allows for multiple pay structures to address varying occupational specialties.
 - e) Include a process for providing compensation adjustments that considers a combination of factors, including achievement of performance objectives or results, competency determinations, recognition of changes in job content, and acquisition and application of advanced skills or knowledge.

17.0107 Employee Committee.

1. The Employee Committee shall direct and supervise, with the approval of the Governing body, all the administrative activities. In addition to the duties imposed elsewhere in this chapter, the Employee Committee shall:
 - a) Establish general policies, rules, and regulations, subject to the approval of the Governing body, which are binding on the Governing body, and which apply to the employees in the classified service. These rules must provide for:
 - (1) Establishing and maintaining a classification plan.
 - (2) Establishing and maintaining a compensation plan.
 - (3) Promoting a consistent application of personnel policies.
 - (4) Enhancing greater uniformity in matters relating to probationary periods, hours of work, leaves of absence, separations, transfers, disciplinary actions, grievance procedures, and performance management.
 - (5) Ensuring fair treatment and compliance with equal employment opportunity and nondiscrimination laws.



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- b) Establish and maintain a roster of all employees in the City classified service in which there must be set forth, as to each employee, the class title of the position occupied, the salary or pay, change in class title, and any other personnel data that the City deems necessary.
- c) Develop procedures that, notwithstanding any other law, must be followed by all employees of the City, to ensure that all salaries are paid in a manner consistent with the City's compensation, classification, and salary administration policies.
- d) Recognize knowledge, skills, complexity, accountability, and working condition hazards as compensable factors of the City's classification plan, required in the performance of work for all positions in the City classified service.
- e) Communicate classification and compensation policies to the managers and employees in the City-classified service by providing written information on the City's classification and compensation procedures.

17.0108 Employee Complaints.

1. Cooperation in development and implementation of basic agency grievance procedures and a Citywide appeal mechanism - Appeals.
2. It is the intent of the City of Larimore to assure fair and equitable treatment and promote harmony between and among all classified employees by adopting grievance procedures and through the creation of an appeals mechanism with primary jurisdiction to entertain and resolve classified employee appeals. It is the policy of this City to resolve bona fide employee complaints as quickly as possible. The employees will cooperate with and assist in the development and implementation of basic grievance procedures and an appeal mechanism. The Employee Committee shall certify appeals from non-probationary employees in the classified service which are related to discrimination, merit system qualification, reprisals, reduction in force, demotion with loss of pay, suspension without pay, and dismissal, and from applicants for positions in the classified service and probationary employees in the classified service which are related to discrimination or reprisal. Upon receipt of an appeal, the employee committee shall submit a written request to the Mayor of Larimore to designate a special meeting of the Larimore City Council

17.0109 Records and Information to Be Furnished.

Upon request to the City Auditor, all departments covered by the personnel system shall furnish any reasonably necessary, non-privileged records and information, except records made confidential by statute.

17.0110 Records Public.

The records of the division and the board, except such records as the statutes may require to be held confidential, are public records and must be open to public inspection, subject to regulations as to the time and manner of inspection which may be prescribed by the governing body.



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17.0111 Mediation - Open Records Exemption - Retaliation Prohibition.

Records of the City relating to mediation services provided by the City are exempt from Section 44-04-18 of the North Dakota Century Code. An employee may not be discharged, disciplined, or penalized concerning the employee's compensation, conditions, location, or other privileges of employment because of the employee's request for or participation in the mediation services provided by the division.

17.0112 Veterans' preferences.

Veterans' preferences must be in accordance with North Dakota Century Code chapter 37-19.1.

ARTICLE 2 - Violations

17.0201 Prohibited Conduct.

1. No person may make any false statement, certificate, mark, rating, or report with regard to any test, certification, or appointment made under this chapter, or in any manner commit or attempt to commit any fraud preventing the impartial execution of this chapter and the rules.
2. No person may, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the classified service.
3. No employee of the City, examiner, or other person may defeat, deceive, or obstruct any person in that person's right to examination, eligibility, certification, or appointment under this chapter, or furnish to any person any special or confidential information for the purpose of affecting the rules or prospects of any person with respect to employment in the classified service.

17.0202 Penalty.

Any person who intentionally violates any provision of this chapter is guilty of an infraction and, upon conviction thereof, is, for a period of one year, ineligible for appointment or employment in the classified service.



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CHAPTER EIGHTEEN

SUBDIVISION REGULATIONS

ARTICLE 1 – General Provisions

- 18.0101 Subdivision of Land: Duty of Planning Commission
- 18.0102 Planning Commission: Rules Governing
- 18.0103 Purpose
- 18.0104 Subdivision Plat: Approval Required for Recording

ARTICLE 2 – Definitions

- 18.0201 Definitions

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- 18.0301 Preliminary Steps
- 18.0302 Tentative Approval
- 18.0303 Final Approval
- 18.0304 Submittal to the City Council

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- 18.0401 Street and Alleys
- 18.0402 Easements
- 18.0403 Blocks
- 18.0404 Lots

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- 18.0501 General
- 18.0502 Improvements

ARTICLE 6 – Specifications for Preliminary Plats

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CHAPTER EIGHTEEN

SUBDIVISION REGULATIONS

ARTICLE 1 – General Provisions

18.0101 Subdivision of Land: Duty of Planning Commission

The Planning Commission of the City is hereby authorized and instructed to review and to approve or disapprove the subdivision of land with the City and territory adjacent thereto in accordance with laws of North Dakota.

18.0102 Planning Commission: Rules Governing

The Planning Commission is to be governed in its review of subdivisions by the laws of North Dakota, ordinances of the City, and the specific regulations contained in this ordinance.

18.0103 Purpose

In order to safeguard the best interest of the City and to assist the subdivider in harmonizing his interest with those of the City at large, Chapter 18 is adopted. Because each new subdivision becomes a permanent unit in the basic structure of the expanding community and to which the community will be forced to adhere and because piecemeal planning of subdivisions will bring on an undesirable, disconnected, and patchwork of patterns that will result in poor circulation of traffic unless its design and arrangement is correlated to the Comprehensive Plan and the Street and Highway Plan of the City aiming at a unified scheme of community interests and all subdivisions of land hereafter submitted for approval to the Planning Commission shall in all respects, fully comply with the regulations hereinafter set forth in this chapter. It is the purpose of this chapter to make certain that regulations and requirements for the platting of land within the City and surrounding area, as adopted by the Planning Commission of the City on _____, in accordance with the laws of the State of North Dakota and the ordinances of the City, are hereby adopted as a part of the Master Plan of the City.

18.0104 Subdivision Plat: Approval Required for Recording

From and after the adoption of these regulations and the filing of a certified copy of the Street and Highway Plan of the City in the office of the Register of Deeds of Grand Forks County in accordance with the provisions of this Chapter and the laws of North Dakota, no plat of a subdivision of land within the City or within the territory adjacent thereto designated on said Street and Highway Plan as subject to the subdivision regulations of the City shall be filed or recorded until it shall have been acted upon by the Planning Commission and the City County of the City and approval entered in writing on the plat.

ARTICLE 2 – Definitions

18.0201 Definitions

For the purposes of this chapter, certain words and terms are hereby defined as follows:

1. Alley - A public service way which provides secondary access to abutting property.
2. Block – An area of land within a subdivision that is entirely bounded by street or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a physical land barrier such as a river.
3. Building Permit – A permit to allow for structural construction as required under the Building Code of the City.



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4. City – The City of Larimore
5. City Council – The governing body of the City
6. Comprehensive Plan – The group of maps, charts and texts that make up the Comprehensive Guide Plan or Master Plan of the City.
7. Design Standards – The specifications to land owners or subdividers for the preparation of plats, both preliminary and final, indicating among other things the optimum, minimum, or maximum dimensions of such items as right-of-way, blocks, easements and lots.
8. Developers – The owner, subdivider or party promoting the growth or building in an area.
9. Easement – A grant by a property owner of the use of a strip of land for such public use as constructing and maintaining utilities, including, but not limited to sanitary sewers, water mains, electric lines, telephone lines, transmission lines, storm sewer or storm drainage ways, gas lines, or roadway.
10. Easement Slope – A grant by a property owner for the use of a strip of land for the purpose of constructing a slope or grand transition from the existing property grade to a new established grade.
11. Final Plat – A drawing or map of a subdivision, meeting all the requirements of the City and in such form as required by the County of grand Forks for the purpose of recording.
12. Improvement – A public improvement consisting of any sanitary sewer, storm sewer, drainage ditch, water main, roadway, street grading and surfacing with or without curbs and gutters, sidewalks, planting strips, crosswalk, off street parking areas, or other facility for which the City may ultimately assume the responsibility for maintaining and operating.
13. Intersection Street – The point of crossing or meeting of two or more streets.
14. Lot – One unit of a recorded plat or subdivision of a portion or parcel of land considered as a unit and occupied or to be occupied by a building and its accessory buildings and including as a minimum such open space as required by other City ordinances and having frontage on a public street.
15. Master Plan – See “Comprehensive Plan.”
16. Owner – A natural person, partnership, firm, association, public or quasi-public corporation, private corporation, or a combination of any of these.
17. Parks and Play Grounds – Public lands and open spaces in the City dedicated or reserved for recreation purposes.
18. Percentage of Grade – the rise or fall of a slope in feet and tenths of a foot for each one hundred (100) feet of horizontal distance. The centerline of a street shall be used to determine the street rise of grade.
19. Pedestrian Way – A public or private right-of-way across a block or within a block to provide access to be used by pedestrians and which may be used for the installation of street light utility lines.
20. Planning Commission – the Planning Commission of the City.
21. Preliminary Plat – A tentative drawing or map of a proposed subdivision meeting requirements herein enumerated.
22. Protective Covenants – Contracts made between private parties as to the manner in which land may be used, with the purpose of protecting and preserving the physical and economic integrity of any given area.



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23. Service Road – A minor street which is parallel and adjacent to thoroughfares and highways, and which provides access to abutting properties and protection from through traffic.
24. Street – A public right-of-way which affords the principal means of access to abutting property.
25. Street Thoroughfares – Arterial streets which are used primarily for heavy traffic and serving as an arterial trafficway between the various districts of the community as shown on the Comprehensive Plan.
26. Street Collectors - Are those that carry traffic from minor streets to the major system of thoroughfares and highways, including the principal entrance streets of residential districts as shown on the comprehensive Plan.
27. Street Minor - Are those which are used primarily to provide vehicular and pedestrian access to abutting properties, consisting of cul-de-sacs and residential streets, less than 600 feet long.
28. Street Cul-De-Sac – A minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.
29. Street Width – The shortest distance between lines of lot delineating the street right-of-way.
30. Street Private – A private roadway affording access by pedestrians and vehicles which is under individual rather than municipal control and ownership.
31. Subdivider – The owners or party promoting the division of a tract or parcel of land into lots.
32. Subdivision – A described tract or parcel of land which is to be or has been divided into two or more lots or parcels, any of which resultant parcels is less than five (5) acres in area for the purpose of transfer of ownership or building development, or if a new street is involved, and division of a parcel of land. The term includes resubdivision or rearrangement of lots in a subdivision and where it is appropriate to the contest, relates either to the process of subdividing or to the land subdivided.
33. Tangent – A straight line departing from a curve which is perpendicular to the radius of that curve.
34. Tract – A parcel of land intended for division or development of a subdivision.
35. U.S.G.S. Datum – Refers to United State Geodetic Survey Datum.
36. Vertical Curve – the surface curvature on a street center line located between lines of different percentage of grade.

ARTICLE 3 - Procedure

18.0301 Preliminary Steps

1. Before preparing the general plan of a subdivision, the subdivider shall consult informally with the Planning Commission and the City Engineer concerning the relation of his property to existing conditions, future plans, and community facilities, utilities, and services.
2. It will be the duty of the Planning Commission to discourage the subdividing of land that are far in advance of the needs of the community, or that by their location cannot be efficiently served by public utilities, fire protection, police, protection or other municipal service; or that are located in areas subject to flooding or that are topographically unsuitable for development; or that for any other reason are unwisely or prematurely subdivided. It shall also be the duty of the Planning Commission to encourage the replatting of lands deemed to be unsatisfactorily subdivided or are underdeveloped.
3. It shall also be the duty of the Planning Commission to encourage the coordinated platting of adjacent small parcels of land.



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18.0302 Tentative Approval

1. The subdivider shall apply in writing to the Planning Commission for tentative approval of the preliminary subdivision plat.
2. Four prints of the preliminary subdivision plat shall be submitted to the Secretary of the Planning commission at least fourteen (14) days prior to the Planning Commission meeting at which the same shall be considered. The preliminary plat shall comply with the provisions of Section 18.1019, subsection "A" of these regulations. Fees charged for the filing of the preliminary subdivision plat shall be paid in full, on the basis of the estimated number of lots created at the time of application for tentative approval. The City Engineer shall prepare a report thereon setting out whether or not said plat meets the requirements of State Law, the City ordinances, and the City Comprehensive Plan. The City Engineer shall present said report together with the recommendation thereon to the next meeting of the Commission filing as herein set out.
3. The Planning Commission shall approve conditionally or disprove such preliminary plat. If approved with modification or waiver of certain requirements by the Planning Commission, the reason thereof shall be specified. If approved conditionally, the reasons and conditions thereof shall be stated. In any conditional approval, the Planning Commission may require the subdivider to submit a revised preliminary plat. If disapproved, the reasons for that action shall be stated. The Planning Commission may make recommendations on the basis of which the proposed subdivision may be approved.
4. Upon making if its determination, the Planning Commission shall embrace the same within a motion which shall include all conditions it requires for approval, or conditions upon which approval will be granted and shall set forth the reasons for the approval given. A copy of the motion shall be sent forthwith to the subdivider and a copy thereof to the City Council together with the plat if it is approved, conditionally or otherwise.
5. Approval of the preliminary plat by the Planning Commission is not an acceptance of the subdivision plat for record, but is rather an expression of approval of a general plat as a guide to preparation to the subdivision plat for final approval and recording upon fulfillment of all requirements of these regulations.
6. Approval shall be effective for a maximum period of twelve months unless upon application by the developer, the Planning Commission grants an extension. If the final plat has not been submitted for final approval within this time a preliminary play must again be submitted to the Planning Commission for approval.

18.0303 Final Approval

1. After the preliminary plat has been approved and the subdivider determines to proceed to secure approval of all or part thereof as a final plat, the final plat shall be submitted to the Planning Commission as follows:
2. Two (2) originals and three (3) prints of the final plat shall be submitted to the City Engineer at least fourteen (14) days prior to the Planning Commission meeting at which the same shall be considered. The application shall be accomplished by such other documents and materials as may be required by these regulations. The City Engineer shall prepare a report thereon setting out whether or not said final plat is in substantial agreement with the preliminary plat and if not, in what particulars it varies therefrom and whether or not it conforms to the requirements of State law and the City ordinance and that the final plat meets all the conditions attached to the final approval of the preliminary plat. At this time an adjusted filing fee shall be determined and an additional fee shall be paid.
3. After receipt of the application for final approval, the secretary of the Planning Commission shall give notice of a public hearing on such proposed subdivision by advertising the time and place of such hearing in a newspaper of general circulation in the City or in the county concerned at least ten days prior to the date of such hearing. The subdivider will furnish the name and address of the owner of the land or his agent at the time of application, and the Secretary of the Planning Commission shall send to said address by registered mail a notice of the time and place of such public hearing not less than five days before the date



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fixed for the hearing. The public hearing may be held at a regular meeting or special meeting of the Planning Commission.

4. After a public hearing, the Planning Commission will act upon the request for final approval. If the Planning Commission approves the subdivision, such approval will be entered upon the tracing and will be signed by the Secretary or Chairman of the Planning Commission. If the Planning Commission disapproves the subdivision, such action, together with the reasons therefor will be entered in the official records of the Planning Commission and a copy of such record will be sent to the subdivider. If it shall be determined that it cannot approve the subdivision unless certain conditions are attached, it shall by motion set forth the conditions for approval and forthwith send a copy of such conditions to the subdivider and all further action on the plat shall be suspended until the subdivider shall respond thereto, provided that if no further action is taken by the subdivider within a thirty (30) day period the plat shall be deemed to be disapproved.
5. The Planning Commission will act upon all requests for final approval of a subdivision within thirty days after application for such approval is made. Failure by the Planning Commission to act within such period shall be deemed as approval of the subdivision and the Secretary of the Planning Commission shall issue a certificate to that effect upon demand. However, the subdivider may waive this requirement and agree to an extension of this period.
6. Upon final approval for a subdivision involving the creation of new streets, the widening, decreasing or vacation of existing streets or alleys, or the creation, enlargement or decrease of other lands devoted to public use, the Planning Commission shall at the same time and without further public hearing approve such charge in streets, alleys, or public lands as an amendment to the Master Plan. The Planning Commission will transmit notice of such action to the City Council of the City together with appropriate recommendations concerning the acceptance of dedicated streets, alleys and public lands lying outside the City, notice of the action of the Planning Commission and appropriate recommendation will be transmitted to the Board of County Commissioners of Grand Forks County or other body having jurisdiction.
7. Final action by motion on the final plat shall be communicated forthwith to the subdivider by the Secretary of the Planning Commission and a copy of the motion shall be sent to the City Council together with the plat and such other data as the Commission shall determine.
8. A final plat that is approved by the Governing body shall be filed for record with the Register of Deeds of Grand Forks County of the county in which the subdivision is located, within thirty (30) days after approval.

18.0304 Submittal to the City Council

1. Upon the adoption of the motion of approval or disapproval by the Planning Commission, the final plat shall come before the City Council for review.
2. The City Council shall have the authority to hold such hearing on the final plat as it shall determine, and upon such notice as it shall provide.
3. If the City Council is not satisfied with the final plat as presented, it may:
 - a) Disapprove the same;
 - b) Set forth such conditions and requirements as it shall require to be fulfilled before the same is approved; or
 - c) Refer the same to the Planning Commission for such further action as it shall determine. Upon such referral, the Planning Commission shall act thereon at the next meeting and report back to the City Council no later than thirty (30) days after the said action of the City Council.



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4. If the City Council shall determine to accept the plat, it shall by resolution so determine and the resolution shall provide for the acceptance of all streets, alleys, easements or other public ways, parks and other spaces dedicated to public purposes.
5. The action of the City Council finally determining the matter shall be communicated to the subdivder and if the plat be disapproved, reasons given by the Council for such determination shall be set forth.
6. A final plat that is approved by the Governing Body shall be filed for record with the Register of Deeds of Grand Forks County or the county in which the subdivision is located within thirty (30) days after approval.

ARTICLE 4 - Standards

18.0401 Street and Alleys

1. The arrangement of thoroughfares and collector streets shall conform as nearly as possible to the Comprehensive Plan. Except for a cul-de-sac, streets normally shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonably projection of streets in the nearest subdivided tracts. The arrangement of thoroughfares and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to run off of storm water, to public convenience and safety, and in their appropriate relation to the proposed use of the area to be served.
2. Minor streets should be so planned as to discourage their use by nonlocal traffic. Deadend streets are prohibited but cul-de-sacs will be permitted where conditions justify their use. Street cul-de-sacs shall normally not be longer than five hundred (500) feet, including a terminal turn around which shall be provided at the closed end with an outside right-of-way radius of not less than thirty (30) feet.
3. Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.
4. When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.
5. Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. The minimum angles of intersection of streets shall be eighty (80) degrees. Street intersection jogs with an offset of less than one hundred twenty five (125) feet shall be avoided.
6. Wherever the proposed subdivision contains or is adjacent to the right-of-way of a limited or controlled access interstate, state highway, or thoroughfare, provisions shall be required to be made for a service road approximately parallel and adjacent to the boundary of such right-of-way or for a street at a distance suitable for the appropriate use of land between such street and right-of-way. Such distance shall be determined with due consideration of the minimum distance required for approach connections to future grade separations, grade crossing or for lot depths.
7. Alleys shall be provided in commercial and industrial districts except that this requirement may be waived where other definite and assured provision is made for service access such as off street loading, unloading and parking consistent with and adequate for the uses proposed. Except where justified by special conditions, such as the continuation of an existing alley in the same block, alleys will not be approved in residential districts. Alleys where provided shall not be less than twenty (20) feet wide for residential alleys and not less than twenty five (25) feet for commercial and industrial alleys. Dead-end alleys will not be permitted except that this requirement may be waived where an adequate turnaround is provided.



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8. Dedication of half streets will not be approved except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations, where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided or where it becomes necessary to acquire the remaining half by condemnation so it may be improved in the public interest.
9. For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets and thoroughfares shall be as shown in the Comprehensive Plan and where not shown therein the minimum right-of-way for streets, thoroughfares, alleys, or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

| | <u>Right-of-way</u> |
|----------------------------------|---------------------|
| Thoroughfare (Major or Arterial) | 80 feet |
| Collector Street (Secondary) | 66 feet |
| Minor Street | 60 feet |
| Service Road | 30 feet |
| Residential Alley | 20 feet |
| Industrial Commercial Alley | 25 feet |
| Pedestrian Way | 10 feet |

Where existing or anticipated traffic on thoroughfares warrants greater widths of right-of-way, these shall be required.

10. All proposed streets shall be offered for dedication as public streets.

18.0402 Easements

1. An easement for utilities at least ten (10) feet wide shall be provided along the rear lot line and along any other line as may be deemed necessary by the City Engineer to form a continuous right-of-way of at least twenty (20) feet in width. Said greater width shall be so specified by the City Engineer and provided accordingly upon the plat.
2. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the City Council by resolution upon the recommendation of the City Planning Commission.
3. Additional easements for pole guys should be provided at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall alongside lot lines.
4. Where a subdivision is traversed by a water course, coulee, drainage way, channel, or stream, a storm water easement, drainage right-of-way or park dedication, whichever the Planning Commission may deem the most adequate, conforming substantially with the lines of such water course shall be provided together with such further width or construction, or both, as will be adequate for the storm water drainage of the area. The width of such easement shall be determined by the City Engineer.

18.0403 Blocks

1. **Block Length.** In general, intersecting streets determining block lengths shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets. Where no existing plats control, the blocks in residential subdivisions shall normally not exceed thirteen hundred and twenty (1,320) feet in length except where topography or other conditions justify a departure from this maximum. In blocks longer than eight hundred (800) feet, pedestrian ways and/or easements through the block may be required. The width and location of such pedestrian ways shall be subject to subsection 2 below and to the approval of the City Engineer and the Planning Commission. Blocks for business or industrial use should normally not exceed seven hundred (700) feet in length.



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2. Block Width. The width of the block shall normally be sufficient to allow two (2) tiers of lots of appropriate depth, except in such cases where lots fronting on service roads are necessary for traffic control. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off street parking and deliveries.
3. Blocks adjacent to thoroughfares should be oriented so that the longer dimension of the lots are parallel to the thoroughfare, or where not feasible or otherwise desirable, service roads shall be required.

18.0404 Lots

1. The minimum lot area shall not be less than that established by the Zoning Ordinance.
2. Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as defined in the Zoning Ordinance.
3. Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.
4. Double frontage or reverse frontage lots shall be avoided except where lots back on a thoroughfare or other arterial street or where topographic or other conditions render subdividing otherwise unreasonable. Such double frontage or reverse frontage lots shall have an additional depth of at least twenty (20) feet in order to allow space for screen planting along the back lot line.
5. Every lot must have a frontage on a public dedicated street other than an alley of at least twenty-five (25) feet.

ARTICLE 5 - Improvements

18.0501 General

1. Approval.
 - a) Before a final plat may be approved by the City Council, the owner shall execute and submit to the City Council an agreement which shall be binding on his or her heirs, personal representatives and assigns, that the owner shall cause no private construction on said land, except with approval of the City Engineer, until all improvements required under this ordinance have been petitioned for, arranged for, or have been constructed.
 - b) No final plat shall be approved by the City Council without first receiving a report from the City Engineer certifying that the improvements described herein, together with the agreements and documents required herein will meet the minimum requirements of all applicable ordinances.
 - c) A certified copy of the plat restrictions shall be filed with the Auditor and Register of Deeds which shall include a provision that in all instruments of sale or conveyance given before all street improvements have been made, the grantee shall agree to and approve such improvements and the assessment of their cost.
2. City Financing. Upon recommendation of the City Engineer and with the approval of the City Council, any and all of the required improvements may be financed and assessed by the City. Length of assessment period and rate of interest shall be as determined by the City Council.
3. Financing by Developer. If deemed advisable and to be in the best interests of the City, the City Council may require the developer to finance and pay for any or all improvements. Prior to the making of such required improvements, the owner, subdivider, or developer shall deposit with the City Auditor an amount equal to the City Engineer's estimated cost of any or all such improvements which are to be financed by the developer, either in cash or an indemnity bond, with sureties to the satisfaction of the City, conditioned upon payment of all construction costs incurred by the City in making of such improvements and all



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expenses incurred by the City for engineering and legal fees and other expense in connection with the making of such improvements. All improvements shall be approved by the City Engineer of the City.

18.0502 Improvements

The following improvements shall be constructed as provided for in this section. Programming of improvements shall be approved by the City Engineer.

1. **City Obligation.** The city will construct, furnish and install at City expense the following improvements according to City specifications. Furnishing of these shall be commensurate with available City funds for such work and according to programs and priorities as established by the City Council. If the developer should desire any of these improvements sooner than the City would be able to furnish them then the costs of the following improvement shall be paid for by the developer.
 - a) **Street Lighting.** Street lighting shall be provided by the City. If additional or other type of lighting than normally provided for by the City is requested by the developer or owner, they shall pay the increased cost thereof.
 - b) **Signs.** Street name signs and traffic control signs shall be installed by the City.
 - c) The City shall not share in the cost of water mains, sanitary sewers, storm sewers, street and alley grading, curb and gutter, sidewalks, crosswalks paving, nor monuments except where such improvements are greater than are required to serve the immediate benefitting area.
2. **Obligations of Developers.** The developer shall pay the proportionate amount of the following improvements on or for the subdivision or development. Financing shall be according to Subdivision 1 of this Section.
 - a) **Site Grading.** Necessary site grading shall be accomplished by the subdivider.
 - b) **Street Grading.** Street grading for the full width of right-of-way shall be accomplished by the subdivider. If no site grading is to be accomplished, the street grading will be included with subsequent street improvements. Street grading shall precede any underground work. Where street grading is not to be immediately followed by street paving, the developer may be required to provide permanent grade markers at the right-of-way line of all streets of a standard approved by the City Engineer.
 - c) **Street Improvements.** Street improvements including base, curb, and gutter, boulevard sodding, inlets and leads, and paving, according to standard City specifications or as approved by the City Engineer, shall be constructed. All required underground work shall have preceded any permanent street improvements. Any improvements on a County road shall be approved by both the County and City Engineer. Temporary construction may, at the discretion of the City Engineer, be required, for just cause, on any street, streets, or portion thereof. Reconstruction or alteration in any way of existing streets affected by the plat or improvement thereupon, shall be subject to the approval of the City Engineer. All costs therein incurred, for either temporary access or reconstruction shall be borne by the owner or subdivider. Half streets, if accepted, shall be improved as directed by the City Engineer.
 - d) **Sanitary and Storm Sewer.** Where City sewer is, or will be, available, at the boundary of the subdivision it shall be constructed according to City specifications. Where it is neither practical nor commercial for the City to extend City sewer, private sewage disposal facilities shall be constructed according to City and State specifications. Consideration shall be given to future availability of City sewer in such installations. Such information shall be recorded on the plat and in each deed so affected.
 - e) **Water Main.** All water supply and water main construction shall be under the jurisdiction of the City.



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- f) Trees. Boulevard trees if desired shall be installed by the owner or developer in accordance with Planning Commission standards.

ARTICLE 6 – Specifications for Preliminary Plats

18.0601 Specifications for Preliminary Plats

1. The following data regarding identification and description of the preliminary plat shall be provided:
 - a) Proposed name of the subdivision which name shall not duplicate or too closely approximate the name of any plat or existing subdivision heretofore recorded in the County.
 - b) Location by section, township, range, or by other legal description.
 - c) Names and addresses of the owners, subdividers, and developers having control of the lands included in said preliminary plat, the designer of the plat, the surveyor and his registration number.
 - d) Graphic scale, not less than one inch to one hundred (100) feet or other scale as approved by the City Engineer.
 - e) North Point.
 - f) Date of preparation.
2. The following data regarding existing conditions shall be provided for preliminary plats:
 - a) Boundary line survey, including measured distances and angles which shall close by latitude and departure with an error of closure not exceeding one (1) foot in five thousand (5,000) feet.
 - b) Total acreage in said preliminary plat computed to one tenth (1/10) of an acre.
 - c) Location and names of existing or platted streets or other public ways, parks and other public open spaces, building and structures, easements and section and corporate lines within the tract and to a distance of one hundred (100) feet beyond the tract at the time of submission of the plat.
 - d) If the proposed subdivision is a rearrangement or a replat of any former plat, the lot and block arrangement of the plat of record, along with its original name shall be indicated by dotted or dashed lines. Also, any revision or vacated roadway of the original plat of record shall be so indicated.
 - e) Location and size of existing surfaced streets shall be shown, as well as all railroads, sewer, water mains, gravel pits, culverts, and other underground facilities within and to a distance of one hundred (100) feet beyond the tract.
 - f) Boundary lines of adjoining platted or unplatted land within one hundred (100) feet beyond the tract.
 - g) Complete topographic map with contour intervals not greater than one (1)9 foot water courses, high water elevation, and date thereof (of part of platted area that are wet or have been wet or have been subject to flooding) marshes, rock outcrops and other significant features; all superimposed on at least one print of preliminary plat. United States Geodetic Survey datum shall be used for all topographic mapping.
 - h) In the case of a subdivision wherein no new street is involved, the prescribed topographic map requirements shall be left to the discretion of the City Engineer.
3. The following data regarding proposed development design features of the preliminary plat shall be provided.



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- a) Layout of proposed streets, alleys, pedestrian ways and easements showing right-of-way widths and proposed names of streets. The name of any street similar to or heretofore used in the City shall not be permitted unless the proposed street is an extension of an already named street in which event that name shall be used. All street names shall be subject to the approval of the Planning Commission.
- b) Layout numbers and approximate dimensions of lots and the number or letter of each block.
- c) Location and size of proposed parks, playgrounds, churches, or school sites or other special uses of land to be considered for dedication to public use or to be reserved by deed of covenant for the use of all property owners in the subdivision and any condition of such dedication or reservation.
- d) Vicinity sketch at a scale of one (1) inch equals one thousand (1,000) or less feet for an area one-half (1/2) mile in radius of the tract to show the relation of the plat to its surroundings.

ARTICLE 7 – Final Plats

18.0701 Data Required for Final Plats

The owner or subdivider shall submit a final plat together with any necessary supplementary information. The final plat shall consist of two (2) tracings and three (3) prints and shall be on a tracing cloth base or other media approved by the City Engineer, and in sheet size of 24 x 36 inches or other size approved by the City Engineer, and in sheet size of 24 x 36 inches or other size approved by the City Engineer. The second tracing may be submitted as reproduced tracing or Vandyke negative of the original.

1. The final plat shall contain the following:

- a) The final plat prepared for recording purposes shall be prepared in accordance with provisions of the North Dakota Century Code and applicable City and County regulations.
- b) Name of subdivision; names shall not duplicate or too closely approximate the name of existing subdivision.
- c) Location by section, township, range, county and state, and including descriptive boundaries of the subdivision based on an accurate traverse, giving angular and linear dimensions which must mathematically close. The allowable error of closure on any portion of a final plat shall be one (1) foot in five thousand (5,000) feet. The location of monuments shall be shown and described on the final plat. Location of such monuments shall be shown in reference to existing official monuments or to the nearest established street line including true angles and distances to such reference point or monument. Permanent monuments shall be placed at each corner of each block or portion of a block, points of curvatures and points of tangents on street lines and at each angle point on the boundary of the subdivision. A permanent marker shall be deemed to be a steel rod or pipe one-half (1/2) inch or larger in diameter extending at least three (3) feet below the finished grade. In situations where conditions prohibit the placing of monuments in the location prescribed above, offset markers will be permitted. The exact location of all markers shall be shown on the final plat together with accurate interior angles bearing and distances. Where practical, permanent parkers shall be placed at all quarter section points within the subdivision and at its perimeter, such monuments to be concrete six by six by thirty (6x6x30) inches with an iron pipe or bronze marker case in the center.
- d) Location of lots, streets, public highways, alleys, parks and other features with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points and points of curve to lot lines.
- e) Boundary lines and descriptions of boundary lines on any area other than streets and alleys which are to be dedicated or reserved for public use.



City of Larimore Ordinances

- f) Lots shall be numbered clearly. Block numbers shall be shown clearly in the center of the block.
- g) Names and addresses of owner, subdividers, and developers, designer of the plat surveyor and his registration number making the plat.
- h) The scale of the plat shall be not less than one (1) inch to one hundred (100) feet or other scale as approved by the City Engineer to be shown graphically, north point, and date of preparation.
- i) Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked "utility easements."
- j) Statement dedicating all streets, alleys and other public areas not previously dedicated as follows: Streets, alleys and other public areas shown on this plat and not heretofore dedicated to public use are hereby dedicated.

2. Certifications required on final plats:

- a) Notarized certification by owner and by any mortgage holder of record of their consent of the plat and the dedication of streets and other public areas.
- b) Notarized certification by a registered land surveyor to the effect that the plat represents a survey made by him and that monuments and markers shown therein exist as located and that all dimensions and geodetic details are correct.
- c) Space for Certificates of Approval to be filled in by the signatures of the Secretary and Chairman of the Planning Commission, Surveyor, the City Engineer, as prescribed by that office, owner, notary public, and City Auditor. The form of approval by the Planning Commission is as follows:

(1) Planning Commission Approval

The subdivision of land shown hereon has been approved by the Planning Commission of the City on _____, 20____, in accordance with the laws of the State of North Dakota, ordinances of the City and regulations of said Planning Commission. In witness whereof are set the hands and seals of the Chairman and the Secretary of the Planning Commission of the City.

_____(SEAL)
Chairman

_____(SEAL)
Secretary

(2) Certification of Registered Surveyor

I hereby certify that this map is a true and complete survey made by me or under my direct supervision on _____, 20____, that all dimensions, angles and bearing are correct as shown; and that all monuments are set as shown.

Registered Land Surveyor
State of North Dakota Registration
Number: _____



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STATE OF NORTH DAKOTA
GRAND FORKS COUNTY

Be it known that on this ____ day of _____, 20____, before me personally appeared ____
_____ and _____ and acknowledged the
execution and signing of the above Certificate of Registered Surveyor to be his or her voluntary
act and deed.

Notary Public, State of North Dakota
My Commission Expires: _____

(3) Owners Consent and Dedication

We, the undersigned, being all the owners and lien holders of the lands platted herein do hereby voluntarily consent to the execution of said plat, and do dedicate the streets, alleys, parks and public grounds as shown thereon, including all sewers, culverts, bridges, water distribution lines, sidewalks, and other improvements on or under such streets, alleys, parks and public grounds, whether such improvements are shown or not, to the public use forever. We agree not to vacate any portion of this plat without consent of the Planning Commission and the City. We also hereby dedicate easements to run with the land for water, sewer, gas, electric, telephone or other public utility lines or services under, on or over those certain strips of land designated hereon as "Utility Easement."

STATE OF NORTH DAKOTA
GRAND FORKS COUNTY

Be it known that on this ____ day of _____, 20____, before me personally appeared ____
_____ and _____ and acknowledged the
execution and signing of the above Certificate of Registered Surveyor to be his or her voluntary
act and deed.

Notary Public, State of North Dakota
My Commission Expires: _____

(4) Approval by City Council

By virtue of Ordinance No. ____ passed _____, 20____, the City Council of the City, has approved the subdivision of land shown hereon: has accepted the dedication of all streets, alleys, and other public ways shown hereon lying within the corporate limits of the City; has accepted the dedication of all pars and other public areas shown hereon (except those public areas specifically dedicated to other public bodies); and has ordered the vacation of streets, alleys and public ways of a subdivision previously recorded with the Register of deeds of Grand Forks County in Book ____, Page _____, more particularly described as follows:

(Note: Use only that part of this paragraph that is applicable to the subdivision.)

Further, said City Council has approved the streets, alleys, and other public ways and grounds as shown hereon as an amendment of the Master Street and Highway Plan and any other appropriate portion of the Master Plan of the City.

Attest: _____
City Auditor

(Note: A similar form will be required for acceptance of any streets or public lands dedicated to any governing body other than the City.)



City of Larimore Ordinances

ARTICLE 8 – Variances

18.0801 General Conditions

The Planning Commission may recommend a variance from the provisions of this ordinance when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Planning Commission shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings as required herein below the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Planning Commission finds:

1. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land.
2. That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
3. That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.
4. That the granting of the variance will not conflict with the intent of the Comprehensive Plan.

18.0802 Application Required

Applications for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for consideration by the Planning Commission, stating fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans or other additional data which may aid the Planning Commission in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions of other legal provisions necessary to guarantee the full achievement of the plan.

ARTICLE 9 – Penalties

18.0901 Sale of Lots from Unrecorded Plats

It shall be unlawful to sell, trade or otherwise convey or offer to sell, trade or otherwise convey any lot or parcel of land as a part of, or in conformity with any plan, plat or replat of any subdivision under the jurisdiction of this ordinance unless said plan, plat or replat shall have first been approved by the City Council and recorded in the Office of the Register of Deeds of the County.

18.0902 Misrepresentations as to Construction, Supervision, or Inspection of Improvements

It shall be unlawful for any person, firm, or corporation owning an addition or subdivision of land within the City to represent that any improvements upon any of the streets, alleys or avenues of said addition or subdivision or any sewer in said addition or subdivision has been constructed according to the plans and specifications approved by the City Council, or has been supervised or inspected by the City when such improvements have not been so constructed, supervised or inspected.

18.0903 Penalty

Any violation of the provisions of this ordinance shall be subject to the penalties as provided by Section 40-48-23 of the North Dakota Century Code.



City of Larimore Ordinances

ARTICLE 10 – Amendments

18.1001 Amendments

1. The Planning Commission may from time to time adopt and amend rules and instruments for the administration of these subdivision regulations to the end that approval of plats will be expedited.
2. These subdivision regulations may be changed or amended by the City Council after a public hearing, due notice of which shall have been given in a newspaper of general circulation in the City at least ten days before the date of such hearing.
3. These subdivision regulations and any amendments thereto shall be published and shall be recorded with the Register of Deeds in the appropriate county or counties as provided by law.

18.1002 Severability

If any section, paragraph, clause, phrase or part of these subdivision regulations is for any reason held invalid, such decision shall not affect the validity of the remaining provisions of these regulations; the application of those provisions to any person or circumstances shall not be affected thereby.

18.1003 Repeal of Conflicting Ordinances and Regulations

From and after these regulations take effect, all regulations, ordinances and parts of ordinances of the City and the Planning Commission in conflict herewith are hereby repealed.

ARTICLE 11 – Resubdivision

18.1101 Resubdivision of Lots: Duty of Planning Commission

The Planning Commission of the City is hereby authorized and instructed to review and to approve or disapprove the resubdivision of lots within the City and in territory adjacent thereto in accordance with the laws of North Dakota.

18.1102 Planning Commission: Rules Governing

The City Planning Commission is to be governed in its review of resubdivision of lots by the laws of North Dakota and the ordinances of the City.

18.1103 Purpose

In order to provide for the proper arrangement of lots and the buildings erected thereon in relation to other existing and planned improvements; in order to provide for adequate and convenient open space for light and air; in order to provide for and improve public health, safety and general welfare of the City, the following rules and regulations for the resubdivision of lots within the City and territory adjacent thereto are hereby adopted.

18.1104 Resubdivision Plat: Approval Required for Recording

From and after the adoption of these regulations, no plat of the resubdivision of lots within the City or within the territory adjacent thereto designated in the Master Plan as subject to the subdivision regulations shall be filed or recorded until it shall have been acted upon by the Planning Commission and the City Council of the City and approval entered in writing on the plat.

18.1105 Definitions

Resubdivision and rearrangement shall be deemed synonymous for the purposes of this Article.

18.1106 Resubdivision Required



City of Larimore Ordinances

A resubdivision of lots must be made when the title to a portion of a recorded lot is transferred. A plat of the resubdivision shall be made and the same shall be filed for recording with the Register of Deeds of Grand Forks County at the same time or prior to the filing of the deed to said portion of a recorded lot.

Provided that this Section shall not apply to any past or future transfer of a portion of a recorded lot in a subdivision plat recorded in the office of the Register of Deeds prior to March 2, 1981, where a portion of the lot was first transferred, as such, previous to such date.

A resubdivision shall not be made when two or more lots of a recorded subdivision are combined in a single building lot having all boundary lines coincident with lot lines shown on the recorded plat of the subdivision.

18.1107 Penalties

Penalties for violation of these regulations shall be as provided by Section 40-48-23 of the North Dakota Century Code.



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CHAPTER NINETEEN

CITY SALES TAX

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ARTICLE 10 –Additional Sales, Use, and Gross Receipts Tax

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City of Larimore Ordinances

CHAPTER NINETEEN

CITY SALES TAX

ARTICLE 1 - Authority

19.0101 Home Rule Charter

Pursuant to Article III, Section 3-16 of the City of Larimore Home Rule Charter, the City is authorized to impose a gross retail city and use sales tax.

Revised 02.04.19

ARTICLE 2 – Definitions

19.0201 Sales Tax

Sales Tax is defined as in Chapter 57-39.2 of the North Dakota Century Code, including any future amendments, and is hereby adopted by this reference. All references to the North Dakota Century Code include amendments adopted by the Legislature of the State of North Dakota.

19.0202 Use Tax

Use Tax is as defined as in Chapter 57-40.2 of the North Dakota Century Code, including any future amendments, and is hereby adopted by this reference. All references to the North Dakota Century Code include amendments adopted by the Legislature of the State of North Dakota.

19.0203 Water

All structures, machinery, equipment, tools and apparatus, water mains, hydrants, service connections and all other property used for the purpose of furnishing a water supply to the 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 water.

19.0204 Sewer

The term “Sewer” includes the following definitions:

- a) “Sanitary Sewer” means all structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent. 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 water.
- b) “Storm Sewer” means all structures, equipment and processes required to collect, carry away groundwater, subsurface water or unpolluted water from any source. 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 water.



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ARTICLE 3 - Sales Tax Imposed

19.0301 Sales Tax Imposed

Except as otherwise provided in this chapter, a tax of one percent is imposed upon the gross receipts of retailers from all retail sales within the corporate limits of the City of Larimore, North Dakota. Such sales tax shall parallel the State of North Dakota sales and use tax law. All of the exemptions applicable for state sales and use tax apply to the Larimore sales and use tax including exemptions for tax exempt entities (schools, counties, state agencies, etc.). Such sales tax shall be applied to the following:

- a) Tangible personal property, consisting of goods, wares or merchandise.
- b) Communications services.
- c) Tickets or admissions to places of amusement or entertainment or athletic events, including amount charged for participation in an amusement, entertainment, or athletic activity, and including the playing of any machine for amusement, or entertainment in response to the use of a coin or token.
- d) Magazines and other periodicals.
- e) The leasing or renting of a hotel or motel room or tourist court accommodations.
- f) The leasing or renting of tangible personal property, the transfer of title to which has not been subjected to a retail sales tax under this chapter.
- g) Sales of alcoholic beverages and tobacco products.
- h) Furnishing and installation of, or attachment to real property in this state by a contractor or a subcontractor who is a retailer of drapes, hardware for hanging drapes, or carpet for floor covering.

ARTICLE 4 – Use Tax Imposed

19.0401 Use Tax Imposed

Except as otherwise provided in this chapter, a use tax of one percent is imposed on the storage, use or consumption in the City of Larimore on:

- a) The purchase price of tangible personal property purchased at retail for storage, use or consumption within the City.
- b) The fair market value of tangible personal property which was not originally purchased for storage, use or consumption in the City, at the time which it is brought into this City.



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c) Alcoholic beverages and tobacco products which are stored, used or consumed in this City.

d) The purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract.

ARTICLE 5 – Maximum Tax Imposed

19.0501 Maximum Tax Imposed

The tax imposed shall not exceed two percent (2%) of the gross retail sales, nor shall the tax exceed fifty dollars (\$50.00) on any single purchase or sales transaction involving one or more items.

Revised 02.04.19

ARTICLE 6 – Exemptions

19.0601 Exemptions

All sales, storage, use or consumption of tangible personal property which are exempt from imposition and computation of the sales or use tax of the State of North Dakota are specifically exempt from the provisions of this article.

ARTICLE 7 – Collection and Administration

19.0701 Contract with State Tax Commissioner

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

19.0702 Corporate Officer Liability

Officers of any corporation required to remit taxes imposed by this article are personally liable for the failure of the corporation to file required returns and remit required payments. The dissolution of a corporation shall not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The tax, penalty and interest due may be assessed and collected pursuant to the provisions adopted by this Chapter.

19.0703 Collection and Administration

The Tax Commissioner and City Auditor for the City of Larimore shall have the powers enumerated in the provisions of Chapter 57-39.2 N.D.C.C. and Chapter 57-40.2 N.D.C.C. relating to the collection and administration of the state sales and use tax, including all administrative rules adopted by the Tax Commissioner. The Tax Commissioner is authorized to establish rate tables integrating the tax imposed by this chapter with other state, county and city taxes.



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ARTICLE 8 –Dedication of Tax Proceeds

19.0801 Dedication of Tax Proceeds

1. All revenues raised and collected under this Chapter shall not be used for general operating expenses of the City. All revenue shall be maintained in a fund separate and apart from all other funds.
2. All revenues raised and collected under this Chapter from the first one percent (1%) of the sales and use tax shall be dedicated only as follows:
 - a) Fifty percent (50%) to municipal infrastructure improvements;
 - (1) For sewer, water and street improvements only.
 - b) Fifty percent (50%) to the Star Fund for economic development.
3. All revenues raised and collected under this Chapter from the second one percent (1%) of the sales and use tax set to terminate on the 31st day of December, 2048 shall be dedicated to street construction, street repairs, street maintenance, water supply, treatment, water distribution, sewage collection, sewage treatment, storm water collection, and/or storm water treatment.

Revised 02.04.19

ARTICLE 9 –Star Fund

19.0901 Intent

It is the intention of this article to use the Star Fund in a way that will encourage the creation of new jobs while saving existing jobs, create new wealth, enhance the local property tax base, encourage capital investment and diversify the local economy.

19.0902 Administration

1. The fund shall be administered by a five- (5) member committee appointed by the Larimore City Council and shall be known as the Star Fund Committee.
2. The Star Fund Committee shall be appointed by the Mayor and confirmed by the City Council as follows:
 - a) One (1) member from the Finance Committee, nominated by the Mayor for a two-year term, to correspond with election years, and confirmed by the City Council.
 - b) One (1) member nominated by the Larimore Economic Development Corporation. This individual will serve a one-year term. Nominations will be received from the Larimore Economic Development Corporation and confirmed by the City Council.
 - c) Two (2) member from the community at large, nominated by the Mayor for a three-year term and confirmed by the City Council.



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- d) One (1) member from the community at large, nominated by the Mayor for a two-year term and confirmed by the City Council.

19.0903 Purpose

The purpose of the Star Fund Committee will be to initially screen all applicants requesting financial assistance from the Star Fund. The Star Fund Committee will perform investigations and evaluate each proposal, negotiate terms and conditions, and offer recommendations to the City Council. The Star Fund may also recommend to the City Council administrative practices, programs, policies and/or procedures applicable to the Star Fund.

19.0904 Policies and Regulations

1. All meetings of the Star Fund Committee shall be open to the public, and a full and complete record of all transactions shall be kept. (See North Dakota Century Code chapter 44-04).
2. Notice of the meeting time shall be given as provided by section 44-04-20 of the North Dakota Century Code and amendments.
3. The Star Fund Committee shall provide a detailed report on or before the first day of June of each year to the Mayor and City Council.

19.0905 Final Authority

The final authority for approval of any proposed project rests with the City Council. A public hearing shall be conducted by the City Council prior to any final action on any proposal presented to the Star Fund Committee. A public notice shall be published in the official newspaper of the City not less than three (3) days prior to the hearing notifying the public of the date, time and purpose of the hearing. If, the application is denied by the City Council, the applicant has until the next regularly scheduled meeting to address the reasons for denial.

ARTICLE 10—Additional Sales, Use, and Gross Receipts Tax

19.1001 Definitions

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

Revised 02.04.19

19.1002 Collection and Administration

Where not in conflict with the provisions of this Ordinance, the provisions of N.D.C.C. chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2, and all administrative rules adopted by the Tax Commissioner, pertaining to the collection and administration of the retail sales, use, and gross receipts tax, including provisions for liability, refund, penalty, interest or credit, govern the administration by the North



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Dakota Office of State Tax Commissioner (hereinafter "Tax Commissioner") of the taxes imposed by this Ordinance.

Revised 02.04.19

19.1003 Sales Tax Imposed

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided by this Ordinance, or the sales and use tax laws of the State of North Dakota, an additional tax of one percent (1%) is imposed upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property, within the corporate limits of the of the City of Larimore, North Dakota.

Revised 02.04.19

19.1004 Use Tax Imposed

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, or the sales and use tax laws of the State of North Dakota, an additional excise tax is imposed upon the storage, use, or consumption within the corporate limits of the City of Larimore, North Dakota of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of one percent (1%) of the purchase price of the property. An additional excise tax is imposed on the storage, use, or consumption within the corporate limits of the City of Larimore, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in this city at the rate of one percent (1%) of the fair market value of the property at the time it was brought into this city.

With respect to the purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in N.D.C.C. § 57-40.2-03.3, the additional tax imposed by this section applies only to bids submitted on or after the effective date of this Ordinance.

Revised 02.04.19

19.1005 Gross Receipts of Alcoholic Beverages

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, an additional gross receipts tax of one percent (1%) is imposed upon all gross receipts from the sale of alcoholic beverages within the city. A person who receives alcoholic beverages for storage, use, or consumption in this state is subject to an additional tax on storage, use, or consumption of those alcoholic beverages at the rate of one percent (1%) percent.

Revised 02.04.19

19.1006 Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, an additional gross receipts tax of one percent (1%) percent is imposed upon all gross receipts from the sale of new farm machinery and new farm irrigation equipment within the city. A person who receives new farm machinery or new farm irrigation equipment for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of that machinery and/or equipment at the rate of one percent (1%) percent.

Revised 02.04.19

19.1007 Exemptions

This Ordinance does not provide for any additional exemptions from imposition and computation of the city sales and use tax other than those provided by Larimore Ordinance 19.0501 and state law.



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Revised 02.04.19

19.1008 Contract with Tax Commissioner

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

Revised 02.04.19

19.1009 Dedication of Tax Proceeds

All revenues raised and collected under this Chapter from one percent (1%) of the sales and use tax set to terminate on the 31st day of December, 2048 shall be dedicated to street construction, street repairs, street maintenance, water supply, treatment, water distribution, sewage collection, sewage treatment, storm water collection, and/or storm water treatment.

Revised 02.04.19

19.1010 Effective Date

This Ordinance shall take effect after its passage, approval, and publication.

Revised 02.04.19

19.1011 Termination Date

This additional sales and use tax of one percent (1%), the proceeds of which shall be dedicated to street construction, street repairs, street maintenance, water supply, treatment, water distribution, sewage collection, sewage treatment, storm water collection, and/or storm water treatment shall terminate on December 31, 2048.

Revised 02.04.19



City of Larimore Ordinances

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