

**NORTH DAKOTA LEAGUE OF CITIES
MODEL MUNICIPAL ORDINANCE CODE**

2008

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INTRODUCTION

During its history of service to cities, the North Dakota League of Cities has found that many communities in the state lack a systematic, up-to-date, and clearly drafted set of ordinances. Consequently, those cities experience difficulty in knowing which ordinances (1) conflict with or have been amended by subsequent ordinances, (2) are void because they are in conflict with state law, (3) are invalid due to state or federal court decisions, or (4) are in violation of the United States Constitution or federal law.

In addition, uncodified ordinances may not be systematically filed and maintained. They may or may not be found in an "ordinance book" and are often arranged in various ways without regard to their content. As a result, it is may be difficult to locate a desired ordinance.

This Model Municipal Ordinance Code can assist in a number of ways. It can provide a city attorney, or other person responsible for codifying city ordinances, a format for undertaking such an extensive project. It gives the codifier an example of what a codification of ordinances entails, how it might be organized, and what it might contain.

The Model Code can also provide a good starting point in the drafting of single ordinances or particular ordinance provisions. Each chapter or individual article can be adopted as a separate ordinance.

Finally, the Model Code can be used as the foundation for a comprehensive ordinance revision and codification project. Section 40-11-09 of the North Dakota Century Code provides a procedure for a complete revision of city's ordinances. Under that section, complete revisions may be passed as a single ordinance, published in book form, and become valid and effective without publication in a newspaper.

Some chapters of this Model Code make reference to standard or model codes, such as a uniform building code. When adopting these codes by reference, it is important that the city have a copy of the referenced code available for public inspection.

It cannot be emphasized too strongly that this document is only a model. Its organizational framework and model language can provide a good start in the codification process, but the final product in each case will have to be tailored to meet local needs.

*Special thanks to the North Dakota Insurance Reserve Fund
for their support of this project.*

Ordinances

City of

North Dakota

Ordinances Adopted:

ENACTING ORDINANCE

ORDINANCE NO. 1

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

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

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

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

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

1. All existing ordinances granting franchises, if omitted from these revised ordinances.
2. All existing ordinances creating contract obligations on the part of the City, which obligations shall remain binding until fully performed by the City.
3. All existing ordinances establishing special improvement districts, or street grades.
4. All of the existing ordinances levying taxes for any years under the provisions of any law relating to the issuance of revenue bonds, municipal bonds, warrants, certificates of indebtedness, or other municipal obligations, whether general or special.
5. All salary and appropriation ordinances.
6. The incorporation herein of any of the ordinances of the City granting franchises shall not operate to repeal the same in their original form nor to extend the term of any franchise beyond that fixed in that ordinance granting the same which in reenacted herein.
7. Any and all other ordinances adopted in said _____ Revised Ordinances of _____ by reference, although the same are not set forth in full therein.
8. All existing ordinances establishing, extending or reducing the city limits of the City, if omitted from these revised ordinances.

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

Section 5. NEW LICENSES AND PERMITS. In the case of any license or permit not heretofore required and appearing for the first time in the _____ Revised Ordinances of _____, such license or permit shall be secured on or before the first day of the first month following the effective date of

this ordinance, and the first fee therefore shall be pro-rated for the remainder of that term thereof on a monthly basis, provided, that the minimum fee for any such new license or permit shall be \$1.00.

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

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

MAYOR

ATTEST:

CITY AUDITOR

CITY SEAL

First Reading:

Second Reading and Final Passage:

(enacting single ordinance)

ORDINANCE NO. _____

AN ORDINANCE RELATING TO _____ AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

(amending ordinance)

ORDINANCE NO. _____

AN ORDINANCE AMEND ORDINANCE NO. _____ (OR SECTION NO. ____ OF THE REVISED ORDINANCES) OF _____ (CITY) _____, BY ADDING THERETO SECTION _____ RELATING TO _____

OR

AN ORDINANCE TO AMEND AND RE-ENACT ORDINANCE NO. _____ (OR SECTION _____ OF THE REVISED ORDINANCES) OF _____ (CITY) _____ RELATING TO _____

* * * * *

BE IN ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF _____, NORTH DAKOTA: (commission City)

OR

BE IN ORDAINED BY THE CITY COUNCIL AND MAYOR OF THE CITY OF _____, NORTH DAKOTA: (council City)

Section 1. Amendment. Ordinance No. _____ (or Section No. _____ or Article No. _____ of Chapter _____ of the Revised Ordinances) of _____ is hereby amended (by adding thereto Section or Article No.) _____ to read as follows:

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

Section 3. Penalty. Any person who violates or fails to comply with any provision of this Ordinance, shall be subject to a fine of not more than one thousand dollars or by imprisonment for not more than 30 days or by both such fine and imprisonment.

OR

Section 3. Penalty. Any person who violates or fails to comply with any provisions of this ordinance, shall be subject to a fine of not more than one thousand dollars.

(repealing ordinance)

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL SECTIONS _____, _____, _____ OF THE

(YEAR) _____ REVISED ORDINANCES (OR ORDINANCE NO) OF THE CITY OF _____,
NORTH DAKOTA, RELATING TO _____ (SUBJECT) _____, BE IT ORDAINED BY THE BOARD
OF CITY COMMISSIONERS (COMMISSION CITY) (OR BY THE MAYOR AND CITY COUNCIL –
COUNCIL CITY) OF THE CITY OF _____, NORTH DAKOTA.

Section 1. Repeal. Sections _____, _____, _____, of the Revised Ordinances (or
ordinance No. _____) of the City of _____, North Dakota, are hereby repealed.

Section 2. Effective date. This ordinance shall be in full force and effect from and after its final
passage and adoption.

TABLE OF CONTENTS

<u>CHAPTER ONE – GOVERNMENT ORGANIZATION</u>		1
ARTICLE 1	- Jurisdiction	3
ARTICLE 2	- Governing Body – Board of City Council.....	3
ARTICLE 3	- Elective Officers	4
ARTICLE 4	- Elective Officers Other than Governing Body	6
ARTICLE 5	- Appointive Offices	7
ARTICLE 6	- Special Provisions Regarding City Officers.....	8
ARTICLE 7	- Purchasing and Disposition of Property	10
ARTICLE 8	- Municipal Elections	11
ARTICLE 9	- Records Management Policy.....	14
 <u>CHAPTER ONE – GOVERNMENT ORGANIZATIONS (ALTERNATIVE)</u>		 15
ARTICLE 1	- Jurisdiction	17
ARTICLE 2	- Governing Body – Board of City Commissioners	17
ARTICLE 3	- Elective Officers	18
ARTICLE 4	- Elective Officers Other than Governing Body	21
ARTICLE 5	- Appointive Offices	21
ARTICLE 6	- Special Provisions Regarding City Officers.....	23
ARTICLE 7	- Purchasing and Disposition of Property	25
ARTICLE 8	- Municipal Election	26
ARTICLE 9	- Records Management Policy.....	28
 <u>CHAPTER TWO – ORDINANCES</u>		 29
ARTICLE 1	- Procedure	30
 <u>CHAPTER THREE – PUBLIC PLACES AND PROPERTY</u>		 33
ARTICLE 1	- Construction and Repair.....	35
ARTICLE 2	- Use and Care of Streets, Sidewalks and Public Places.....	37
ARTICLE 3	- Unclaimed and Abandoned Property	41
ARTICLE 4	- House Numbering	43
ARTICLE 5	- Trees - Shade Tree Committee.....	43
 <u>CHAPTER FOUR – FIRE PROTECTION AND PREVENTION</u>		 45
ARTICLE 1	- Organization and Regulations of the Fire Department.....	47
ARTICLE 2	- Fire Limits.....	49
ARTICLE 3	- Fires in Public Places	50
ARTICLE 4	- Fire Prevention.....	51
ARTICLE 5	- Firearms, Fireworks and Explosives	52
ARTICLE 6	- Adoption of Electrical Code.....	53
ARTICLE 7	- Penalty for Violation of this Chapter	53
 <u>CHAPTER FIVE – POLICE DEPARTMENT</u>		 54
ARTICLE 1	- Organization and Regulations	55
ARTICLE 2	- Powers and Duties.....	56
ARTICLE 3	- Miscellaneous.....	56
 <u>CHAPTER SIX – ZONING – PLANNING</u>		 58
ARTICLE 1	- Planning and Zoning Commission	61
ARTICLE 2	- Definitions.....	61
ARTICLE 3	- Establishment of Districts	63
ARTICLE 4	- Application of Regulations	63
ARTICLE 5	- Non-Conforming Uses	64
ARTICLE 6	- Use Districts	65

ARTICLE 7	-	Area Districts	67
ARTICLE 8	-	Yard Regulations.....	67
ARTICLE 9	-	Enforcement	68
ARTICLE 10	-	Board of Adjustment.....	69
<u>CHAPTER SEVEN - WATER AND SEWER</u>			72
ARTICLE 1	-	Utility Established.....	74
ARTICLE 2	-	Water Service	81
ARTICLE 3	-	Regulation of Sewer Use.....	86
ARTICLE 4	-	Sewer Surcharge	94
ARTICLE 5	-	Adoption of State Plumbing Code.....	96
ARTICLE 6	-	General Penalty Provision.....	97
<u>CHAPTER EIGHT - BUSINESS REGULATIONS AND LICENSES.....</u>			100
ARTICLE 1	-	General Provisions	102
ARTICLE 2	-	Transient Merchants.....	103
ARTICLE 3	-	Hawkers and Peddlers.....	106
ARTICLE 4	-	Runners, Solicitors and Canvassers.....	107
ARTICLE 5	-	Solicitation Without Invitation.....	107
ARTICLE 6	-	Alcoholic Beverages	107
ARTICLE 7	-	Shows, Carnivals and Circuses	116
ARTICLE 8	-	Validity	116
ARTICLE 9	-	Penalty.....	116
<u>CHAPTER NINE – TRAFFIC.....</u>			117
ARTICLE 1	-	Definitions.....	122
ARTICLE 2	-	Traffic Administration	122
ARTICLE 3	-	Enforcement and Obedience to Traffic Regulations	122
ARTICLE 4	-	Traffic Control Devices.....	127
ARTICLE 5	-	Speed Regulations and Care Required	129
ARTICLE 6	-	Turning Movements	133
ARTICLE 7	-	Special Stops	135
ARTICLE 8	-	Operators.....	137
ARTICLE 9	-	Miscellaneous Driving Rules	137
ARTICLE 10	-	Pedestrians' Rights and Duties.....	146
ARTICLE 11	-	Regulations for Motorcycles	149
ARTICLE 12	-	Regulations for Bicycles	151
ARTICLE 13	-	Angle Parking	154
ARTICLE 14	-	Stopping, Standing or Parking Prohibited in Specific Places.....	155
ARTICLE 15	-	Reserved Parking Areas	159
ARTICLE 16	-	Time Limit Parking Zones	159
ARTICLE 17	-	Equipment of Vehicles.....	159
ARTICLE 18	-	Motorcycle Equipment.....	162
ARTICLE 19	-	Lighted Lamps Required.....	167
ARTICLE 20	-	Regulating the Kinds of Classes of Traffic on Certain Roads.....	168
ARTICLE 21	-	Criminal Traffic Violations.....	168
ARTICLE 22	-	Disposition of Traffic Offenses.....	174
ARTICLE 23	-	Sections Not Adopted	180
ARTICLE 24	-	Filing of Ordinance	180
ARTICLE 25	-	Adoption of Amendments by Reference	180
ARTICLE 26	-	Severability Clause.....	180
ARTICLE 27	-	Penalties	180
<u>CHAPTER TEN – HEALTH.....</u>			181
ARTICLE 1	-	Board of Health.....	182
ARTICLE 2	-	Contagious Diseases.....	182

ARTICLE 3	-	Garbage, Refuse, Rubbish.....	183
ARTICLE 4	-	Dangerous Buildings.....	185
<u>CHAPTER ELEVEN - ANIMALS AND FOWL.....</u>			193
ARTICLE 1	-	General Regulations.....	194
ARTICLE 2	-	Dogs and Cats.....	195
<u>CHAPTER TWELVE - PUBLIC NUISANCES.....</u>			197
ARTICLE 1	-	Sanitary Nuisances.....	198
ARTICLE 2	-	Smoke - Gases.....	199
ARTICLE 3	-	Radio Interference and Noise Control.....	199
ARTICLE 4	-	Automobiles - Personal Property.....	200
ARTICLE 5	-	Noxious Weeds.....	201
ARTICLE 6	-	General Penalty Provision.....	202
<u>CHAPTER THIRTEEN – OFFENSES.....</u>			203
ARTICLE 1	-	In General.....	205
ARTICLE 2	-	Offenses Against Persons.....	206
ARTICLE 3	-	Offenses Against Property.....	207
ARTICLE 4	-	Offenses Against Public Order, Health, Safety & Sensibilities.....	215
ARTICLE 5	-	Sentencing.....	223
ARTICLE 6	-	Penalties.....	229
<u>CHAPTER FOURTEEN – FRANCHISE.....</u>			230
ARTICLE 1	-	Grant of Franchise.....	231
<u>CHAPTER FIFTEEN - BUILDING CODE.....</u>			232
ARTICLE 1	-	General Building Code.....	233
<u>CHAPTER SIXTEEN - ELECTRICAL CODE.....</u>			234
ARTICLE 1	-	Adoption of Electrical Code.....	235
ARTICLE 2	-	Permits.....	235
ARTICLE 3	-	Supervision of Work.....	237
<u>CHAPTER SEVENTEEN - PERSONNEL POLICIES.....</u>			238
ARTICLE 1	-	Personnel Policies and Procedures.....	239
<u>APPENDIX.....</u>			240
<u>CERTIFICATE.....</u>			242

CHAPTER ONE
GOVERNMENT ORGANIZATION
MAYOR - COUNCIL CITIES

ARTICLE 1 - Jurisdiction

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

ARTICLE 2 - Governing Body - Board of City Council

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

ARTICLE 3 - Elective Officers

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

ARTICLE 4 - Elective Officers Other than Governing Body

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

ARTICLE 5 - Appointive Offices

- 1.0501 Appointive Officers in Council Cities - Appointment of More Than One Assessor
- 1.0502 Term of Appointive Officers
- 1.0503 General Duties of City Auditor
- 1.0504 General Duties of City Attorney
- 1.0505 General Duties of Other Appointive Officers

ARTICLE 6 - Special Provisions Regarding City Officers

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

ARTICLE 7 - Purchasing and Disposition of Property

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

ARTICLE 8 - Municipal Elections

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

ARTICLE 9 - Records Management Policy

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

CHAPTER ONE
GOVERNMENT ORGANIZATION
MAYOR – COUNCIL CITIES

ARTICLE 1 - Jurisdiction

1.0101 Over Persons and Property

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

1.0102 Defining City Limits

There shall be included within the municipal limits of the City all areas duly platted and recorded as being within said City; all lots and blocks shall also include all streets, alleys and public ways included within the area and adjacent thereto which are defined as within the confines of the City limits. The City 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 section 40-06-01)

1.0103 Division of City into Precincts

There shall be _____ precincts within the City to be known and designated as: _____

and each of said precincts shall consist of all that part of the City which lies within the boundaries hereinafter set forth for each of said precincts and the polling place in each precinct shall be located at the site hereinafter set forth, namely: _____

1.0104 City Fines and Penalties Limited

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

ARTICLE 2 - Governing Body - 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 _____ 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 section 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 section 40-06-05)

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 _____ council members shall be elected as provided by law. (Source: North Dakota Century Code sections 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 section 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

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 section 40-08-08)

If a vacancy occurs in the office of mayor, the City Council may call a special City Election to fill such vacancy for the unexpired term or may, after fifteen days from the date of such vacancy, elect one of its members to act as mayor, the member so elected shall possess all of the rights and powers of the mayor until the next election and until a mayor is elected and qualified. Upon petition of five percent of the electors, as determined by the total number of votes cast in the City in the last General Election, the council shall call a special election to fill a vacancy occurring more than six months prior to the next City Election, provided such petition is submitted within fifteen days of the date of such vacancy. During the interim between date when a vacancy occurs in the office of the mayor and election and qualification of a successor, the president of the City Council shall be acting mayor. (Source: North Dakota Century Code section 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 section 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 section 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 section 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 section 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 section 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 section 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 section 40-08-24)

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 section 40-08-25)

1.0314 Mayor May Call on Male Inhabitants to Aid in Enforcing Ordinances

When necessary, the mayor may call on each male inhabitant 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 section 40-08-26)

1.0315 Police Chief and Policemen Appointed by Mayor

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 section 40-08-27)

1.0316 Mayor May Administer Oath

The mayor of the City may administer oaths and affirmations. (Source: North Dakota Century Code section 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 sections 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 section 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 section 40-18-06)

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

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

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

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

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:

mayor
city auditor
municipal judge
city assessor
city administrator

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 North Dakota Century Code section 44-02-01. (Source: North Dakota Century Code section 40-13-03)

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 section 40-08-07 and 40-08-15) The compensation of the Mayor shall be _____ per month and _____ per meeting attended. The compensation of Council Members shall be _____ per month and _____ per meeting attended. The salary of the municipal judge shall be set by resolution of the city governing body. (Source: North Dakota Century Code section 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

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 section 44-08-04)

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

Mileage expenses shall be reimbursed at the rate provided for under state law for state officials and employees. (Source: North Dakota Century Code section 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 section 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 belonging to the City or appertaining to his office; and upon his refusal to do so, shall be liable for all damages caused thereby, and guilty of an infraction.

1.0608 Administrative Policy and Procedure

Each officer shall:

1. Perform all duties required of their office by law or ordinance and such other duties not in conflict as may be required by the governing body.
2. Be immediately responsible to the governing body for the effective administration of their departments and all activities assigned thereto.
3. Keep informed as to the latest practices in their particular field and shall inaugurate with approval of the governing body such new practices as appear to be of benefit to the service and to the public.
4. Submit such reports of activities of their departments as the governing board may request.
5. Be responsible for the proper maintenance of all City property and equipment used in their departments.

6. Establish and maintain records in sufficient detail to furnish all information needed for proper control of department activities and to form a basis for reports to the governing board.
7. Cooperate with other officers, departments and employees.
8. Have power to direct and supervise all department subordinates.
9. Be available during the hours designated by the City governing body.

1.0609 Obstructing a Public Official - Prohibited

Every person who willfully delays or obstructs a public officer in the discharge or attempt to discharge any duty of his office shall be guilty of an infraction. Upon conviction, for a violation of this section, such person shall be fined not more than \$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 section 48-01.2-04)

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 sections 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 section 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

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

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

1.0707 Real Property Transfer Requirements

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

ARTICLE 8 - Municipal Elections

1.0801 Qualified Electors in Municipal Elections - Restrictions

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

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.

1.0803 Designation of Polling Places for Municipal Elections

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

1.0804 Compensation of Inspectors, Judges and Clerks at Municipal Elections

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

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 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.

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 - Records Management Policy

1.0901 Adoption of Policy

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

1.0902 Amendments, Deletions, Additions to City Records Management Manual

Sec. _____ shall be amended to read as follows:

Sec. _____ shall be deleted.

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