# City of Wilton Ordinance Book

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# CHAPTER ONE - GOVERNMENT ORGANIZATION - COMMISSIONED CITIES

## Article 1: Jurisdiction

### 1.0101 Over Persons and Property

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

The jurisdiction and police powers of the City shall include, extend to and include all property owned by the Montefiore School District Number 1, within the city limits of the City of Wilton.

### 1.0103 Division of City into Precincts

There shall be one precincts within the City of Wilton to be known and designates as Wilton and each of said precincts shall consist of all that part of the City of Wilton which lies within the boundaries hereinafter set forth for each of the precincts and the polling place in each precinct shall be located at the site hereinafter set forth to wit: Wilton Memorial Hall

### 1.0104 City Fines and Penalties Limited*

The provisions of Section 40-05-06 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. Except as provided in subsection 2 and 3, the fine or penalty for the violation of any ordinance, resolution, or regulation of a city shall not exceed five hundred dollars and the imprisonment shall not exceed thirty days for one offense.

2. For every violation of a city ordinance regulation the operation or equipment of motor vehicles or regulation traffic, except those ordinances listed in section 39-06.1-06
3. For every violation of a city ordinance prohibiting shoplifting, vandalism, criminal mischief, or malicious mischief, the penalty may not exceed a fine of one thousand dollars, imprisonment for thirty days, or both such fine and imprisonment.

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 NDCC Chapter 12.53.

(* See Appendix)

**Article 2: Governing Body- Board of City Commissioners**

**1.0201 Regular Meetings***

The Board of City Commissioners shall meet regularly at the City Hall on the first and third Wednesday of each month at the hour of 8:00 PM unless some other time and place specifically fixed by the board. The board 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 President or any two (2) members of the governing body to consider matters mentioned in the call of such meetings. Written notice of any special meeting shall be given to each member of the governing body at least three hours before the time of the meeting.

**1.0203 Meeting to be Public- Journal of Proceeding 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 thereto.

**1.0204 Quorum**

The provisions of Section 40-06-03 of the North Dakota Century Code and all subsequent amendments shall be and 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 of a Special Meeting**

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

No vote of the governing body 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.

(* See Appendix)

**Article 3: Elective Officers**

**1.0301 Board of City Commissioners***

The governing body of the City of Wilton shall be the Board of City Commissioners which shall be composed of the President of the Board of City Commissioners and four City Commissioners. The President and four City Commissioners shall be elected as provided by law.

**1.0302 Commissioners- Terms of Office- Terms of Members of the First Board-Resignations**

The provisions of Section 40-09-04 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Each commissioner and the president of the board of city commissioners shall hold office for four years commencing on the fourth Tuesday in June of the year in which the officer was elected and until a successor has been duly elected and qualified. The commission shall establish by ordinance a procedure whereby one-half of all commissioners, as nearly as practicable, are elected biennially. The president or any other member of the board may resign from office by filing a written resignation with the city auditor, who shall submit the resignation to the board of city commissioners at its next regular meeting or at a special meeting called for consideration of the resignation. The resignation is effective upon its acceptance by the board.

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

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

The president of the board of commissioners shall be the executive officer of the city and he shall see that all the laws of the city are enforced. He shall have the right to vote as a member of the board, but he shall have no veto power.

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

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

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

**1.0305 How Vacancies in Board Filled**

The provisions of Section 40-09-10 of the North Dakota Century Code and all subsequent amendments shall be and hereby are incorporated by reference in this ordinance.

If a vacancy occurs in the office of the city commissioner or president of the board of city commissioners, the board may call a special city election to fill such vacancy for the unexpired term, or may, after fifteen days from the date of such vacancy appoint a person to fill such vacancy until the next city election, at which election the unexpired terms shall be filled. Upon petition of five percent of the electors, as determined by the total number of votes cast in the city in the last general election, the commission shall call a special city election to fill a vacancy occurring more than six months prior to the next city election, provided such petition has been submitted within fifteen days of the date of such vacancy.

**1.0306 Departments of Administration of City Divided Among Commissioners- Duties**

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

The board of city commissioners, by a majority vote of all members thereof, shall designate from among its members:

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

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

**1.0307 Accounts Audited by Respective Commissioners- Approved by Board**

The provisions of Section 40-09-13 of the North Dakota Century Code and all subsequent amendments shall be and hereby are incorporated by reference in this ordinance.

The commissioner who is the head of each department shall audit all accounts against it, but before payment the accounts shall be acted upon and approved by at least three members of the board of city commissioners. Approval by at least three members of the board of city commissioners shall be recorded in the record of the board and this shall be sufficient to indicate approval without requiring the approving members to sign or initial the voucher or order for payment of the account.

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

The provisions of Section 40-09-14 of the North Dakota Century Code and all subsequent amendments shall be and hereby are incorporated by reference in this ordinance.

The board of commissioners shall have the sole authority to pass and adopt rules and regulations concerning the organization, management, and operation of all the departments of the city and the other agencies created by it for the administration of the city's affairs.

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

The provisions of Section 40-09-16 of the North Dakota Century Code and all subsequent amendments shall be and hereby are incorporated by reference in this ordinance.

Whenever it is necessary for the more effective discharge of its duties, the board of city commissioners may summon and compel the attendance of witnesses and the production of books and papers before it. The board may punish for contempt of the board with the same of the county court. All process necessary to enforce the powers conferred by this section shall be signed by the president of the board, attested by the city auditor, and served by any member of the police force of the city.

**1.0310 Restrictions of Member of Board**

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

1. Except as provided in subsection 2, a member of the board of city commissioners may not:
   a. Be eligible to any other office the salary of which is payable out of the city treasury;
   b. Hold any other office under the city government; and
   c. Hold a position of remuneration in the employment of the city.
2. A member of a board of city commissioners may serve as an ambulance crew member employed by the city or under a contract with the city and be remunerated for those services or as a volunteer firefighter or ambulance crew member for the city and be compensated for attending training or responding to emergency calls or may be reimbursed for expenses incurred in attending training or in responding to emergency calls

(* See Appendix)

**Article 4: Appointive Offices**

**1.0401 Municipal Judge**

There shall be elected each four years, a municipal judge who shall hold office until his successor is elected and qualified. The municipal judge shall perform all the duties prescribed by law and the ordinances of this city. He shall receive an annual salary as full compensation for all services rendered.

**1.0402 Report to Board of City Commissioners**

It shall be the duty of the municipal judge to make a full report under oath, of all proceedings in the actions and matters before him in the City of Wilton is a party, or interested therein, to the governing body of the City of Wilton, at the close of each month. Until such report has been filed with the City Auditor, no salary shall be paid the judge for such work.

**1.0403 Contents of Report**

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

**1.0404 Receipt of Accompany Report**

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

**1.0405 Court Hours**

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

**1.0406 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 thereto.

**Article 5: Appointive Offices**

**1.0501 Appointive Officers- Right to Dispense with Offices**

At the first meeting after the qualification of its members, or as soon thereafter as possible, the Board of Commissioners, shall appoint the following officers;

1. City Auditor
2. City Attorney
3. City Assessor
4. City Health Officer
5. Chief of Police
6. City Engineer

In addition, governing body may appoint a Treasurer, additional assessors, a street commission, a chief of the fire department, one or more policemen, a board of public works, and such other officers or boards as the Board of City Commissioners may deem necessary, or may, by a majority vote, dispense with any appointive office, and proved that the duties thereof shall be performed by other officers or boards, by the Board of City Commissioners, or by a committee or committees thereof.

**1.0502 Term of Appointive Officers**

The provisions of Section 40-15-06 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

The terms of all appointive officers of a city operating under the commission system of government commences on the first day of July succeeding their appointment unless otherwise provided by ordinance, and the officers shall hold their respective offices for the term provided by ordinance, and until their respective successors are qualified.

**1.0503 Postponement of Appointments**

The Commission may, upon the concurrence of two-thirds of the Commissioners present, postpone action on such appointments, or any of them, to a special session of the Commission to be held not later than one week from the date of such adjournment.

**1.0504 Appointive Officers- Removal Upon Hearing- Suspension Appointments and Removal of Temporary Officers**

The provisions of Section 40-15-07 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Any person appointed to any office of a city operating under the commission system of government and any employee of the city may be removed by a majority vote of all the members of the board of city commissioners, but no officer or employee shall be removed except for cause and unless charges are preferred against him and he is accorded an opportunity to be heard in his own defense. Within ten days after charges are filed against any such person in the office of the city auditor, the board shall proceed to hear and determine the case upon its merits. The president of the board of city commissioners, or the board, by a majority of the vote of its members, may suspend any officers or employee against whom charges have been preferred until the disposition of the charges. The president may appoint a person to fill any vacancy temporarily until charges against the incumbent of such office have been disposed of. Any person appointed by the president without confirmation may be removed by him when he deems it is for the best interest of the city.

**1.0505 General Duties of the City Auditor**

It shall be the duty of the city auditor to issue the calls for all special meetings of the City Commission when requested to do so by the President or Presiding Officer or any two (2) members of The City Commission. He shall also keep a full and complete record of all meetings of the City Commission and shall keep a book titled as the "Ordinance Book" and shall record therein at length all ordinances of the City. He shall keep a book to be styled the "Special Assessment Book" in which he shall keep all records of special assessments. All such books shall have full and complete indexes of the contents thereof. He shall report to the City Commission at the end of every month a list of all warrants, interest coupons, bonds or other evidence of indebtedness which may have been redeemed or paid by him during the month and he shall duly give to the commission a copy of his receipt therefore. He shall further handle all correspondence, permits and licenses and shall do and perform each, every and all duties and things prescribed for him to do by statutes of this state, or by an ordinance, resolution or proper instruction of the City Commission.

**1.0506 General Duties of the City Attorney**

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

**1.0507 General Duties of Other Appointive Officers**

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

**Article 6: Special Provision Regarding City Officers**

**1.0601 Bonds of Municipal Officers and Employees**

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

1. President of the City Commission
2. City Auditor
3. Deputy City Auditor
4. Municipal Judge
5. Police Officers
6. Water Department Superintendent
7. Street Department Superintendent
8. City Assessor

Said officers or employees shall be bonded from the State Bonding Fund in accordance with the provisions of Chapter 26-23 North Dakota Century Code and in such amounts as are set by the laws of the State of North Dakota, the Board of City Commissioners, or the Commissioner of Insurance. Each Commissioner, before entering upon the duties of his office, shall furnish bone in the penal sum of $3,000.00, conforming to the provisions of law applicable to the bonds of state officers. Section 40-13-02 and Chapter 26.1-21.

**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 treasurer and auditor, shall file the same with the city auditor within ten (10) days after notice of his or her election or appointment has been given. The oath of the municipal treasurer and of the auditor shall be filed in the office of the County Auditor. In addition, each commissioner shall take an oath that he is not under any direct or indirect obligation to appoint or elect any person to the office of policeman, fireman, or any other office, position or appointment under the city government.

**1.0603 Salaries of City Commissioners**

Beginning January 1, 2015, the monthly salary of the President of the City Commission shall be 150% of the rest of the commission. The monthly salary of the City Commission shall be $150.00. The President of the Commission and City Commissioners shall be paid $25.00 for special meetings. Such salary may be declined by a commissioner upon written notice to the City Auditor.

**1.0604 Salaries of City Officials and Appointive Officers**

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

**1.0605 Meals and Lodging**

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

Verification of claims shall not be required for the first three quarters listed above and only a lodging receipt shall be required for the fourth quarter; provided however, the amount paid for such lodging shall not be required to be listed.

Such persons engaged in travel without the State shall 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 sworn statement and receipts shall be required for taxi or cab fares up to and including the sum of five dollars.

Any person filing a false claim with the City of Wilton for mileage or expenses as herein permitted is guilty of an offense, and may be punished by a fine of not to exceed $500.00 and imprisonment not to exceed 30 days.

**1.0606 Personal Interest in Contract by Public Officer- Prohibited**

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

**1.0607 Retiring Officer to Turn Over Books**

Any person having been an officer of the City shall, within five days after notification and request, deliver to his successor in office, all property, books and effects of every description in

his possession belonging to the City or appertaining to his office; and upon his refusal to do so, shall be liable for all damages caused thereby, and guilty of an offense and may be punished by a fine of not to exceed $500.00 and imprisonment of not to exceed 30 days.

**1.0608 Administrative Policy and Procedures**

PERFORM DUTIES. Each officer shall:

1. Perform all duties required of his 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 by his 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.

**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.

**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 proposals. Due notice shall be given by advertising for the sale and 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 bidder who, in addition to price, has the best ability, capacity and skill to perform the contract or provide the service required promptly or within the specified time without delay or interference. There shall also be considered character, integrity, reputation, judgment, experience and efficiency of the bidder, the quality of performance of previous contract, sufficiency of financial resources and previous and existing compliance with state law and City ordinances.

**1.0703 Open Market Purchases- Emergency**

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

**1.0704 Accounts Against City to be in Writing and Verified**

Accounts, claims and demands against the City of Wilton, North Dakota, for any property or services for which said city shall be liable, shall be reduced to writing in items and the claimant shall verify the same in the manner hereinafter set forth.

**1.0705 Form of Verification**

The claimant shall execute a verification printed on vouchers to be furnished by the City Auditor and reading as follows:

> "Verification. I do hereby certify that the within bill, claim, account, or demand is just and true; that the money therein charged was actually paid for the purpose therein stated; that the services therein charged were actually rendered and of the value therein charged, and that no part of such bill, claim, account or demand, has

been paid; and that the goods therein charged were actually delivered and were of the value charged.

Signed_____

_____

(If signed for a firm or company, show authority on this line)"

**1.0706 Further Verification May Be Required**

It is hereby provided that any officer of the Board of City Commissioners before whom any bill, claim, account or demand against the city shall come for audit or approval may, if deemed necessary in his or their discretion, 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.

**1.0707 Blank Forms to Have Verification Printed Thereon**

All blank vouchers forms for bills, claims, accounts, and demands against the City shall have printed thereon the language of Section 1.0705

**1.0708 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. Instruments affecting such conveyance, sale, lease or disposal shall be valid only when duly executed by the President of the City Commissioners and attested by the City Auditor. 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. 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 Section 2-02-15, NDCC. Said lease shall further be in compliance with regulations and directives appropriate federal agencies.

2. Conveyance of right of way for any state highway shall be as provided in Section 24-01-46, NDCC.
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, NDCC.
4. Conveyance of property to a municipal parking authority shall be as provided in Section 40-61-05, NDCC.
5. Lease of public buildings or portions thereof shall be as provided in Chapter 48-08, NDCC.
6. Granting of concessions for cafes, restaurants and confectioneries in public buildings or on public grounds shall be as provided in Chapter 48-09, NDCC.
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, NDCC.

**1.0709 Real Property Transfer Requirements**

The provisions of Section 40-11-04.1 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference into 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 shall be and are hereby incorporated by reference into 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 Commissioned Cities- When Held- Notice, Polls, Judges and Inspectors**

The provisions of Section 40-21-02 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference into this ordinance.

Biennial municipal elections must be held on the second Tuesday in June in each even numbered year.

1. Thirty days before the filing deadline for candidate names to be printed on the ballot, an official notice of this deadline along with a list of the offices to appear on the ballot must be published in the official newspaper of the city as provided by section 40-01-09.
2. Ten days' notice of the time and place of the election and of the offices to be filled at the election must be given by the city auditor by publication in the official newspaper of the city as provided by section 40-01-09.
3. The governing body of a city shall enter into an agreement with the governing body of the county or counties in which the city lies concerning the use of a single canvassing board, the sharing of election personnel, the printing of election materials, the publishing of legal notices, and the apportioning of election expenses.
4. For city elections that are not held under an agreement with any county, the governing body of the city shall appoint one inspector and two judges of election for each polling place in the city at least ten days before the election is held and the polls must be opened and closed as provided for the opening and closing of polls at statewide elections. In voting precincts in which over three hundred votes are cast in any previous election, the governing body may appoint two election clerks for each polling place. For a city election that is not held under an agreement with any county in a precinct in which seventy-five or fewer votes were cast in the last city election, the governing body of the city may appoint one inspector and one judge for each polling place.
5. When a city enters into an agreement with the county to hold the city election in conjunction with the county election, the deadline for giving notice of the city election along with the offices to be filled at the election may be adjusted in order to meet the

publishing requirements of the county. Each city governing body that enters into an agreement with the county must notify the county auditor, in writing, immediately after the candidate filing deadline on the sixty-fourth day before the election of the offices to be filled at the election and any measures to appear on the ballot.

**1.0803 Designation of Polling Places for Municipal Elections**

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

**1.0804 Compensation of Inspectors, Judges and Clerks at Municipal Elections**

The provisions of Section 40-21-05 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference into 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, districtwide, or countywide election, and if the same election officials perform services for both elections, the city shall not be required to pay the election 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- Principals Stated**

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 into this ordinance.

No reference may be made to a party ballot nor to the party affiliation of a candidate in a petition to be filed by 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 into this ordinance.

A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, before four p.m. on the sixty-fourth day before 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. A candidate shall also file a statement of interests as required by section16.1-09-02. If multiple candidates were elected to the office at the preceding city election at which the office was voted upon, the number of signatures must equal at least ten percent of the total votes cast for all candidates divided by the number of candidates that were to be elected to that office at that election. Qualified electors who sign a petition must reside within the ward or precinct in and for which that 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. In cities operating under the commission system of government the required petition may be signed by the qualified electors at large residing within the city. If a petition is mailed, it must be in the possession of the city auditor before four p.m. on the sixty-fourth day before the holding of the election. However, no more than three hundred signatures may be required and the signatures may be on separate sheets of paper. Petitions must meet the specifications of nominating petitions pursuant to section 16.1-11-16. If a city election is not combined with a state or county election according to section 40-21-02, a candidate may be nominated by filing the required petition with the city auditor before four p.m. on the sixty-fourth day before the holding of the election. A candidate may withdraw the candidate's nominating petition at any time before the applicable deadlines for filing nominating petitions provided for in this section. Nominating petitions required by this section may not be circulated or signed prior to January first preceding the election. Any signatures to a nominating petition obtained before that date may not be counted.

A nominating petition for a special election may not be circulated or signed more than thirty days before the time when a petition for a special election must be filed. A candidate for city council may run for either the office of mayor or council member but not both in the same election. A candidate for the city commission may run for either the office of city commissioner or the office of president of the board of city commissioners but not both in the same election. A candidate may run for only one office in a city at any given election.

**1.0807 Ballots in Municipalities- Markup**

The provisions of Section 40-21-08 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference into this ordinance.

The auditor of the city shall place only the names of the persons nominated upon the ballot.

The auditor shall arrange the offices upon the ballot in the order in which they are named in the statutes. The auditor shall determine the arrangement of the names of the candidates upon the ballot by conducting a drawing immediately after the candidate filing deadline on the sixty-

fourth day before the election. 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 into 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 Counting Ballots- Returns- Canvass of Returns by Governing Body of Municipality**

The provisions of Section 40-21-12 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference into this ordinance.

Repealed by S.L.2005, ch.185, §18

**1.0810 Municipal Elections to be Governed by Rule 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 into this ordinance.

The manner of conducting, voting at, keeping poll lists, and canvassing votes at municipal elections, recounts, and contests of the results of the elections is 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 chapter 16.1-07.

**1.0811 City Auditor to Notify 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 into 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 that person's election or appointment. Within the same period of time, the city auditor shall also notify the state supreme court of the election or the appointment of any municipal judge or alternate judge.

**1.0812 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 into 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.

**1.0813 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 into this ordinance.

Special municipal elections to fill vacancies or for any other purpose must be held and conducted by the inspectors and judges of election of the several polling places in the same manner and the returns must be made in the same form and manner as at regular municipal elections.

**1.0814 Highest Number of Votes Elects in Municipal Election- Procedure for Tie Vote**

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, the choice shall be determined by a coin flip in the presence of the governing body of the municipality and in such manner as it shall direct.

# CHAPTER TWO - ORDINANCES

## Article 1: Procedure

### 2.0101 Enacting Clause for Ordinances

The enacting clause of every ordinance adopted by a municipal corporation shall be: "Be it ordained by the City Commission of the city of Wilton." Such caption, however, may be omitted when the ordinances are published in book form or are revised and digested.

### 2.0102 Procedure in Passing Ordinances

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

### 2.0103 Yea and Nay Vote on Passage- When Required

The yeas and nays 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. The member of the governing body who passes his vote or who remains silent when the roll call on the vote is taken, shall be deemed to have voted yea, and a record of the yea shall be entered into the journal.

### 2.0104 Reconsideration or Rescinding Votes

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

### 2.0105 Publication of Ordinances

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

**2.0106 Effective Date of Ordinance**

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

**2.0107 Effect of Repeal**

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

**2.0108 Enactment and Revision of Ordinances**

The provisions of Section 40-11-09 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference into 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 revisor or revisors, 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 Violating 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 shall be and are hereby incorporated by reference into 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 shall be and are hereby incorporated by reference into 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 shall be and are hereby incorporated by reference into this ordinance.

Any person upon whom any fine or costs, or both, has been imposed for violation of a municipal ordinance may, after hearing, be committed upon order of the court to jail or other place provided by the municipality for the incarceration of offenders until the fine or costs, or both, are fully paid or discharged by labor as provided in section 40-18-12. The court may not commit a person under this section when the sole reason for the person's nonpayment of fines or costs, or both, is the person's 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.

**2.0112 Costs of Prosecution**

In every case of conviction of a violation of an ordinance, or any part thereof, the cost of prosecution shall 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 of Wilton, if the defendant is found guilty, the municipal judge shall render judgment accordingly. It shall 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, he may be required to work for the municipality at such labor as the defendant’s strength and health will permit, not exceeding 8 hours in each working day. For that work, the defendant will be allowed for each day exclusive of his board, $10.00 on account of the fines and costs assessed against him.

**2.0114 Hard Labor Authorized**

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, the choice shall be determined by a coin flip in the presence of the governing body of the municipality and in such manner as it shall direct.

**2.0115 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.

**2.0116 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 of Wilton shall be paid into its treasury. Under no circumstances shall the municipal judge remit fines or penalties or payments of costs

**2.0117 Deferring or Suspending Sentence**

The municipal judge may, in his discretion, upon the conviction of any person of any offense against any of the ordinances of the City of Wilton, then and there impose a sentence of imprisonment as may be regulated by such ordinances, or defer imposition of sentence or suspended the sentence imposed on such person for a period of not to exceed ninety (90) days from the date of such conviction; and may during such period, allow the defendant to go upon his own recognizance, or upon such bail as may be regulated by law or the ordinances of said City, or may suspend or defer such sentence upon such terms and conditions as the Judge may prescribed; and may, in his discretion, at or before the expiration of such period, have the defendant brought before him and commit such defendant or cause such sentence of imprisonment to be then and there imposed and executed in like manner, so far as applicable, as may be provided by law or the ordinance in cases where the commitment and imposition of the sentence of imprisonment is not deferred or suspended and may then and there forthwith commit such defendant and require that such sentence of imprisonment be executed and carried out.

# CHAPTER THREE - PUBLIC PLACES AND PROPERTY

## Article 1: Construction and Repair

### 3.0101 Supervision

All construction maintenance and repair of public streets, alleys, sidewalks and other public ways shall be under the supervision of the city engineer or street commissioner. He 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 ordinance.

### 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 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 ____ with surety to be approved by the governing body conditioned to indemnify with City for any loss or damage resulting from the work undertaken or the manner of doing the same.

### 3.0104 Specifications

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

### 3.0105 Duty of Owner to Maintain

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

**3.0106 Application for Permit**

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

1. Name and address of the owner, or agent in charge, of the property abutting the proposed work area.
2. Name and address of the party doing the work.
3. Location of the work area
4. Attached plans or sufficient sketches showing details of the proposed alterations
5. Estimated cost of the alteration
6. Such other information as the city engineer or street commissioner shall find reasonable necessary to the determination whether a permit should be issued hereunder.

**3.0107 Standards for Issuance of Permit**

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

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

**3.0108 Sidewalks Built to Grade Specifications***

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

1. All sidewalks shall be constructed of concrete.
2. All sidewalks in residential areas shall be constructed not less than five (5) feet and shall have a minimum slope one-fourth (l/4) inch per foot from the inside edge toward the street.
3. All sidewalks shall be concrete and at least four (4) inches in thickness.
4. All sidewalks shall be laid out as follows:
    a) In locations where the right-of-way is sixty (60) feet or less the sidewalks shall be constructed on the property line.

b) In locations where the right-of-way is greater than sixty (60) feet the sidewalk shall be constructed eighteen (18) inches out from the property line.
c) In no case in the residential district shall the sidewalk be constructed adjacent to the curb unless right-of-way and topographic features require it.
d) Notwithstanding any other provision herein all sidewalks shall be set out so that they are in conformity with existing sidewalks to which they may attach.

5. All sidewalks in commercial and/or industrial districts shall be constructed from the property line to the back of the curb and the width of sidewalk shall be governed by the width of street section; provided however, in areas where commercial development is not complete the entire sidewalk need not be constructed, a section six (6) feet in width adjacent to the curb shall be constructed thus leaving an area for structural foundation.

**3.0109 Materials and Manner of Construction**

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

**3.0110 City Contractor**

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

All sidewalks, driveways, curb and gutter and alley returns lying between the property line and the abutting street hereafter constructed within the City of Wilton 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 of Wilton, conditioned that said contractor shall maintain and keep in good repair, for a period of two (2) years from date of final acceptance all sidewalks, driveways, curb and gutter and paving repairs so constructed by such contractor under the terms of such contract, and that in case of default under the part of such contractor to so maintain and keep such improvements in good repair made by him for the said period of two (2) years, or in case

they shall within said time begin to crumble or disintegrate or become cracked or broken to such extent that, in the opinion of the city engineer or street commissioner, the same is not a satisfactory compliance with the specifications for the construction thereof, then the city engineer or street commissioner may direct that such sidewalks, driveways, curb and gutters or paving repairs be immediately repaired or re-laid in whole or in part as he shall deem best, and the contractor shall immediately cause the same to be repaired or failure so to repair or to relay the same, the City at any time within said two (2) year period or thereafter, may cause the same to be repaired or re-laid, and the cost thereof whether done by the City directly or through a contract, may be recovered against said contractor and the surety upon such bond. (* See Appendix)

**Article 2: Use and Care of Streets. Sidewalks and Public Places**

**3.0201 Obstructions - Penalty**

It shall be unlawful for any person, firm or corporation to cause, create or maintain any obstruction of any street, alley, sidewalk or other public way, except as may be specified by ordinance or by the City Engineer or Commission of Streets and Public Improvement.

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 and No/100 Dollars (425.00), nor more than Five Hundred and No/100 Dollars ($500.00).

**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 of Wilton or held by the City of Wilton for public use. Any person violating the provisions of this section shall be guilty of an offense and fined not less than Twenty-five and No/100 Dollars (425.00), nor more than Five Hundred and No/100 Dollars ($500.00), or be imprisoned in the city jail for not to exceed thirty (30) days or by both such fine and imprisonment.

**3.0203 Encroachments**

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

**3.0204 Openings**

It shall be unlawful to construct or maintain any opening or stairway in any public street or sidewalk or alley without a permit from the governing body. All such lawfully maintained openings shall be guarded by a suitable strong cover or railing to be approved by the Commissioner of Streets 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 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 Commissioner of Streets and Public Improvement, 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 of Wilton, North Dakota.

**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 lawns, porches, yards, sidewalks, steps, streets, alley, public or public parking lots in the City of Wilton, by any person, firm, co-partnership, association or corporation, is hereby declared to be a nuisance and unlawful. Any such person or entity violating the provision of this section shall be guilty of an infraction.

**3.0209 Heavy Vehicles**

No person, firm or corporation shall move, or cause to .be moved over the paved streets, sidewalks, crosswalks, culverts, bridges and viaducts within the City any engine, tractor, wagon, truck or other vehicle, object or thing which will tend to injure the paving, sidewalks, crosswalks, culverts, bridges or viaducts over which the same are transported, or which exceeds in weight, 20,000 pounds per axle and exceeds 750 pounds per inch of tire widths, or any vehicle to the wheels of which are attached spurs, bars, angle irons or cleats which will tend to mar or deface the paving, sidewalks, crosswalks, culverts, bridges or viaducts, except under the direction and permission of the 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's 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.

**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 of Wilton 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, however, that 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.

A person may not move, dump or deposit by any means any snow or ice accumulated on private property onto any public street, alley, or public right-of-way. Violation of this section will be considered an offense, in which a fine of One Hundred Dollars ($100.00) may be imposed.

**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 from such sidewalk in front of or along a lot therein, the ice or snow there from 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 Commissioner of the city, or ashes or sand sprinkled thereon, and the necessary expenses shall be charged against the abutting property by special assessment in the manner prescribed by law.

**3.0212 Same: Assessments by Public Works Supervisor When Work is Done by City**

Whenever the Commissioner of Streets 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, he 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 of the property chargeable with such expense, the actual cost and expense of such removal and a description of the lot, lots or parcels of land along or in front of which is the sidewalk or sidewalks from which snow or ice has been removed.

**3.0213 Same: Assessment, Publication by Auditor, Hearing by City Commissioners**

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 Council, notifying all persons objecting thereto to appear and present their objections, such notice shall be published twice, once in each week's issue for two (2) consecutive weeks,

the last publication to be not less than eight (8) days before the time fixed for the hearing. At the June meeting of the City Council or at such later meeting as the hearing and confirmation of such assessment may be adjourned to, the City Council shall take up and consider said assessment and shall hear any objections thereto or to any part thereof, and after revising and correcting the same; The city auditor shall attach to such list his certificate that the same is correct as confirmed by the City Council and shall thereupon file said assessment list in his office as provided by law, and such assessment shall be certified to the county auditor by the city auditor at the same time and in the same manner that sidewalk assessments are certified.

**3.0214 Street Cleaning- Snow Removal**

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

**3.0215 Same: Notice**

Whenever it becomes necessary to remove snow or ice or to sweep and clean streets, or to mark streets for traffic purposes in the city there shall be designated by the City Engineer or Street Commissioner the area and streets to be cleared of snow or ice or cleaned as aforesaid and the time during which such snow or ice removal and street cleaning and marking of streets shall be done and posting of such information in the area affected.

**3.0216 Impounding**

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

**3.0217 Blocking Streets**

No driver of any vehicle shall stop the same on any street, avenue, lane or alley of the City in such a manner as to hinder or prevent other vehicles or persons from passing at all times, unless in case of absolute necessity, nor shall any driver of any vehicle slop the same at any

regular crossing of said street, alley, lane or avenue, so as to prevent the free passage of persons traveling or passing on foot.

**3.0218 Excavations- Permits**

It shall be unlawful for any person, firm or corporation, except public utilities which have received a franchise from the City of Wilton, 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, or without complying with the provisions of this article or in violation of or variance from the terms of any such permit.

**3.0219 Same: Guarding of**

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

**3.0220 Same: Application**

Applications for excavation permits shall be made to the 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 whom or which the work is being done, a statement of how applicant intends to backfill the excavation, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done

**3.0221 Same: Fees**

The fee for such permits shall be:

1. Excavation in asphalt or Portlant Cement concrete pavement or surface _____$_____ per sq. ft.
2. Excavation in brick pavement or surface_____$_____ per sq. ft.
3. Excavation in oil treated street surface _____$_____per sq. ft.
4. Excavation in untreated or unimproved street or surface _____$_____per sq. ft.

**3.0222 Same: Bond**

No permit shall be issued unless and until the applicant therefore has filed with the auditor a bond in the sum of ten thousand dollars ($10,000.00), conditioned to indemnify the City for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing any such tunnel or

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

**3.0223 Same: Deposit**

No such 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 $100.00, if no such pavement is involved, and if the excavation is in a paved area $600.00 to insure the proper restoration of the ground and laying of the pavement if any. From this deposit shall be deducted the expense of the city of relaying the surface of the ground or pavement and of making the refill if this is done by the city at its expense, and the balance shall be returned to the applicant with interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

**3.0224 Same: Manner of**

It shall be unlawful to make any such exaction 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 excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface.

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.

No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

**3.0225 Same: Restoration**

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 Commissioner of Streets or City Engineer.

**3.0226 Same: Supervision**

The Commissioner of Streets or the City Engineer shall from time to time inspect or cause to be inspected, all excavations or 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 him at least ten (10) hours before the work of refilling any such tunnel or excavation commences.

**3.0227 City Parks**

All city parks in the City of Wilton shall have established hours of public access. The hours shall be from 6:00 AM to 11:00 PM each day. Notice of the same may be published in the official newspaper or posted at the public parks. Any variance from the above hours of use shall be under special permission granted by the Park Commissioner.

## 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 Same: Seizure

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 the Police Officer, Street Commissioner or other officer of the city.

### 3.0303 Same: Holding- Notice of Sale

Such personal property as aforesaid 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 will be held. If prior approval is obtained from the governing body such unclaimed or abandoned property may be sold at a community auction provided that the Chief of Police or a Police Officer shall be responsible for the notice and reporting requirements of this article.

### 3.0304 Same: Report of Sale

At the time specified in said notice the said property shall be sold by the Chief of Police of the city or by any Police Officer designated by him, at public auction, to the highest bidder for cash and within three (3) days after the dare of said sale, the officer making the sale shall make a report thereof to the 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 thereof. 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 the City Auditor the proceeds of said sale.

**3.0305 Same: Bill of Sale**

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 Same: Proceeds of Sale**

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

**3.0307 Same: Redemption**

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) moths after such sale and upon making satisfactory proof to the governing body of his ownership thereof, claim the proceeds of such sale, upon payment to the city of the necessary expenses incurred by the city for the seizure, storage and sale of said property.

**3.0308 Annual Report**

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

## Article 4: House Numbering

### 3.0401 House Numbering Required

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

25’ Lots:

1. Skip 2 numbers per lot.
2. Even numbers facing south, Odd numbers facing north

50’ Lots:

1. Skip 4 numbers per lot
2. Even numbers facing south, Odd Numbers facing north

East and West houses:

1. Skip 4 numbers per half lot.
2. Even numbers facing east, Odd numbers facing west

### 3.0402 Numbers on Houses

It shall be the duty of the owner and occupants of every house in the city to have place 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.

# CHAPTER FOUR - FIRE PROTECTION AND PREVENTION

## Article 1: Organization

### 4.0101 Establishment

The City of Wilton is part of the Wilton Rural Fire Protection District of McLean and Burleigh Counties and relies upon them for fire protection.

### 4.0102 Unlawful to Hinder Department

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 chief or actin Chief of the Department.

### 4.0103 Right of Way

Any engine, truck or apparatus belonging to the fire department shall going to or returning from a fire, have the right of way in all streets, alleys and public places over any wagon, automobile or other vehicle of any kind, and any person in charge of any such vehicle must stop the same when necessary to permit any engine, truck or apparatus of the Fire Department to pass without hindrance or delay.

### 4.0104 Driving over Fire Hoses

No person shall drive any wagon, automobile or other vehicle of any kind, upon or over any hose belonging to the Fire Department while the same is laid in the streets or alleys of the city.

### 4.0105 False Alarms

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 a signal box with like intent; or tamper, meddle, or interfere with any such fire box; or intentionally cut, break, deface or remove any such box, or any of the wires or supports thereof, connected with the fire alarm system 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.

**Article 2 – Fire Limits**

**<u>Omitted</u>**

**Article 3: Fires in Public Places**

**4.0301 Smoking**

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

**4.0302 Notice**

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 of Wilton, advising tenants of the provisions of this chapter.

**4.0303 Bonfires Prohibited- Exception**

No person shall kindle, maintain or assist in maintain any bonfire or other exposed fire on any pavement or oiled street within the city, or within twenty-five (25) feet of any building, excepting under the written permit of the Chief of the Fire Department, and only when such burning shall be done in metallic receptacles approved by him, and under proper safeguards as he may direct as to the time and weather conditions, and no 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 materials or construction made up of combustible materials, expect 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 Prohibited**

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

**4.0306 Reports**

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

**Article 4: Fire Prevention**

**4.0401 Adoption of Fire Code***

There is hereby adopted by the City of Wilton for the purposes of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the _____ and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which code not less than three (3) copies have been are now filed in the office of the Auditor of the City and the same are hereby ad0pted and incorporated as full as if set out at length therein.

The fee for any permit or license required by the said fire prevention code, where no other license or permit fee is fixed elsewhere in the city ordinances, shall be the sum of _____to be paid to the Chief of the Bureau of Fire Prevention and by him to be paid into the City Treasury without delay.

**4.0402 Amendments, Additions and Deletions Made in Fire Code**

Amendments

Sec._____ etc. shall be amended to read as follows:

Additions

Sec._____ etc. is amended by adding thereto the following;

Deletions

Sec._____ is deleted.

**4.0403 Establishment of Bureau of Fire Prevention**

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

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

**4.0404 Storage of Flammable Liquids**

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

_____

_____

**4.0405 Storage of Liquefied Petroleum**

The limits or area for storage of liquefied petroleum shall comply with the limits established in Section 4.0404.

**4.0406 Modification 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 coy shall be furnished the applicant.

**4.0407 Appeals**

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 eh 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 governing body within 30 days from the date of the decision of the appeal.

(* See Appendix)

**Article 5: Firearms, Fireworks and Explosives**

**4.0501 Firearms not to be Furnished to Minors**

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

**4.0502 Exploding Firearms**

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

**4.0503 Blank Cartridges, Pistols, Etc. - Manufacture, Use or Sale of**

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

**4.0504 Fireworks Defined**

As used in this article, the term “fireworks” means any substance or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes any blank cartridge, toy cannon and toy cane in which explosive are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedo, skyrocket, Roman candle, daygo bomb or other fireworks of like construction and any fireworks containing any explosive or compound, or any tablets, or other device containing any explosive substance and commonly used as fireworks. The term “fireworks” shall not include toy pistols, toy guns in which paper caps containing item of like construction; item containing any explosive or flammable compound; or tablet or other device containing twenty-five hundredths of a grain or less of explosive compound are used, and toy pistols caps which contain less than twenty-five hundredths of a grain of explosive mixtures.

**4.0505 Fireworks- Discharging of, Sale of**

The sale, use, firing or discharging of any rocket, fire-cracker, torpedoes, roman candles or of any such "Fourth of July" explosives whatsoever, or fireworks within the city limits is expressly prohibited at any time whatsoever, except as provided by State Statutes.

**4.0506 Exceptions**

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 illuminations, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations.

## Article 6: Adoption of Electrical Code

### 4.0601 Electrical Code Adopted

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

## Article 7: Penalty for Violation of This Chapter

### 4.0701 Penalty

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

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

**Article 8: Anhydrous Ammonia Nurse Tank Wagons**

**4.0801 Definitions**

An "anhydrous ammonia nurse tank wagon" means a department of transportation approved tank wagon specifically designed for the transportation of anhydrous ammonia from the bulk storage area to the destination where it will be used.

"Safety chains" mean coupling devices of size and tensile strength as specified by the Federal Highway Administration, Department of Transportation, in Section 393.71 of Subpart F of Subchapter B 11 Federal Motor Carrier Safety Regulations,11 of Chapter Ill, Title 49, October 1, 1980 Edition.

**4.0802 The transportation of anhydrous tanks within the Wilton city limits:**

The transportation of anhydrous tanks within the Wilton city limits: and the unincorporated territory is hereby prohibited except in routes designated within this ordinance.

The bulk storage of liquefied petroleum gases and compressed natural gas within the city limits and the unincorporated territory is hereby prohibited except for those in areas previously established prior to the enactment of this Ordinance.

**4.0803 Nurse tank wagon hitch, safety chains and preventive maintenance:**

All anhydrous ammonia nurse tank wagons shall be equipped with a secure hitch with a safety clip in place when being towed throughout the city.

All anhydrous ammonia nurse tank wagons shall be equipped with safety chains to prevent the wagon from breaking loose in the event the tow-bar fails or becomes disconnected. The chains shall be crossed and attached to the towing vehicle near the point of tow-bar attachment or hitch. The length of chain shall be no more than necessary to permit free turning of the vehicles. The chains shall be attached to the tow-bar at the point of crossing or as close to that point as possible. The chains shall be so connected and installed so that if the tow-bar becomes disconnected, the tow bar will not drop to the ground.

Fittings, valves, hoses, tires, hitch, and safety chains shall be maintained in a safe working condition on any anhydrous ammonia nurse tank wagon which will be towed through the city. Any tank which has been damaged shall not be towed through the city until repairs have been made and the tank has been approved by the Department of Transportation.

**4.0804 Hours restricted for towing anhydrous ammonia nurse tank wagons:**
No anhydrous ammonia nurse tank wagons may be towed or otherwise conveyed upon the streets, alleys, avenues, boulevards, or highways within the city between sundown and sunrise.

**4.0805 Routes for anhydrous ammonia nurse tank wagons**
Only those routes designated as truck routes in the city shall be used for transporting any anhydrous ammonia nurse tank wagon, provided, however, that such vehicles, for the purpose of delivering or loading cargo.

**4.0806 Parking**
Anhydrous ammonia nurse tank wagons shall not be parked at any time within the city except in those areas zoned industrial (Wilton Cenex or Wilton Elevator). A motor vehicle which contains anhydrous ammonia and is parked in those areas zoned industrial must be at all times be attended by its driver. However, the vehicle need not be attended while the driver is performing duties which are incident and necessary to his duties as the operator of the vehicle. No such vehicle may be disconnected from the truck/tractor or otherwise dollied down on any street or highway within the city limits.

**4.0807 Marking of anhydrous ammonia nurse tank wagons:**
Anhydrous ammonia nurse tank wagons shall be marked and identified on all four sides, on a White background and green letters, with the words "ANHYDROUS AMMONIA" in letters not less than four (4) inches high, as per the Department of Transportation, in Section 393.71 of Subpart F of Subchapter B "Federal Motor Carrier Safety Regulations," of Chapter Ill, Title 49, October 1, 1980 Edition.

**4.0808 Towing anhydrous ammonia nurse tank wagons in tandem:**
Anhydrous ammonia nurse tank wagons may be hooked in tandem provided the two units and towing vehicle do not exceed seventy-five (75) feet in length.

**4.0809 Speed limit while towing anhydrous ammonia nurse tank wagons**
The speed limit while towing an anhydrous ammonia nurse tank wagon through the city shall not be more than twenty-five miles per hour at any time.

**4.0810 Fines**
The fine for violation of the city ordinance will be $50.00 per violation occurrence.

# CHAPTER FIVE - POLICE DEPARTMENT

## Article 1 – Organization and Regulations

### 5.0101 Establishment

The Police Department heretofore created for the City of Wilton and by this chapter continued shall consist of the Chief of Police and as many policemen, policewomen, patrolmen and officers as may be authorized by the governing body.

### 5.0102 Additional Officers- Emergency

In case of riot or unusual or general disturbances of the peace, the Chief of Police shall have power to appoint such other and additional policemen and policewomen as he may deem necessary for the preservation of the public peace.

### 5.0103 Duties of Chief

The Chief of Police shall be the keeper of the city jail, and shall have custody of all persons incarcerated therein, and shall provide a jailer at all times when there is somebody incarcerated therein. He shall keep records and make such reports concerning the activities of his department as may be required by statue 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 his supervision.

### 5.0104 Rules and Regulations

The Chief of Police Department may make or prescribe such rules and regulations as he shall deem advisable; such rules, when approved by the governing body, shall be binding on such members. Such rules and regulations may cover, besides the conduct of the members, uniforms and equipment to be worn or carried, hours of service, vacations and all other similar matters necessary or desirable for the better efficiency of the department.

### 5.0105 Duties of Police- General

It shall be the duty of the Police Department, and each and every member of the police force, to notice and diligently inquire into and report to the Chief of Police all violations of the city ordinances, violations of the criminal laws of the state and breaches of peace, and to make complaint against the person or persons guilty thereof, and to attend punctually on all trials of offenses in regard to which complaint has been made by and policeman.

Within the city limits and for a distance of one and one-half (1 ½) miles in all directions outside the city limits, the police officers watchman of the city shall perform the duties and exercise the powers of peach officers as defined and prescribed by the laws of the State of North Dakota.

**5.0106 Duties of Police- Hot Pursuit- Defined**

A police 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.

**5.0107 Duties of Police- Service of Process, etc.**

Police officers shall serve and execute any warrant, writ, process, order of 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 police, within the limits prescribed in this section, may service and execute all writes and process issued by justices in civil actions. In addition to the duties set out in this section, the police shall perform such other duties as may be prescribed by Chief of Police and governing body.

**5.0108 Special Police**

At the request of any corporation, firm or person, the Chief of Police may appoint one or more special policemen or policewomen to duty for such corporation, firm or person which special policemen or policewomen shall have all authority now, or which may be hereafter conferred by law upon the policemen, and may make arrangements that such special policemen or policewomen shall be paid by the corporation, firm or person requesting the same, and covered by their Workmen's Compensation coverage in which case such special police shall receive no compensation from the city and the city shall not be responsible for the negligent or unauthorized acts, this being the responsibility of the corporation, firm or person requesting their appointment.

**Article 2: Powers and Duties**

**5.0201 Money or Property of Arrested Persons**

It shall be the duty of the Police Department, and of each and every member of the police force, to safely keep all moneys and 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.

**5.0202 Arrested Persons**

Any police 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 Chief of Police 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**

The police department 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.

**5.0105 Witness Fees and Mileage of Municipal Police Officers**

Police officers of the City of Wilton shall be entitled to be paid the witness fess 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 police officers shall submit vouchers for the above payment in accordance with 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, or make, or place or cause to be given, any false report, call or communication of any kind to the police, or any false police alarm with intent to deceive; or tamper with or set off any police alarm or signal box with like intent; or tamper, meddle, or interfere with any such police alarm box, or intentionally cut, break, deface or remove any such box, or any of the wires or supports thereof, connected with the police alarm system or intentionally interfere with or injure any property of any kind belonging to or used by the police department; or hinder or delay any apparatus or equipment or vehicles belonging to the police department.

**5.0302 Right of Way**

Any motor vehicle or motorcycle of the police department shall, when going to or returning on business of the department, have the right-of-way upon giving an audible signal by bell, sire, exhaust whistle, or red 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 police vehicle shall have passed.

# CHAPTER 6 – ZONING

See separate Zoning Ordinance and Subdivision Regulation Book

# CHAPTER SEVEN - WATER AND SEWER

## Article 1: Utility Established

### 7.0101 Water and Sewer Department Established

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

### 7.0102 City Water and Sewer Department to be Independent Agency

All of the business affairs of the said City Water and Sewer Department shall be conducted, insofar as is possible within the ordinances of the City of Wilton, as a completely separate and distinct division of the City of Wilton. Separate and distinct accounts shall be set up on the books of the city auditor, which said accounts shall at all times reflect the true condition of the Water and Sewer Department, as distinct from the remaining business of the City, and which shall be so devised as to disclose the annual profit or loss of the department. The funds of the department shall be held in the custody of the city auditor and disbursed upon warrant in the same manner as other funds, but the Water and Sewer Department shall be given credit upon the books of the City for any and all funds paid by it into the City Treasury and shall be charged on the books of the City with all payments made by the City on its behalf. Transfers from the Water and Sewer Department to the General Fund or any other fund of the City shall not be made except upon order of the governing body, nor shall transfer be made from City funds to the Water and Sewer Department without like order. Where bonds have now been, or may hereafter be issued against any water works improvement or sewage improvement, which constitute a general obligation of the City, the taxes levied for the payment of such bonds and interest shall be levied and expended for such purpose in the manner provided by law, until such time as it may be possible out of the proceeds of the Water and Sewer Department, after setting up a reasonable reserve for depreciation and new construction, to make payment of the bond requirements from the profits of the Water and Sewer Department. It is expressly declared to be the purpose of this ordinance that as soon as the same can be accomplished without undue burden to the water users of this City, the Water and Sewer Department shall be placed upon an entirely independent basis as a separate business enterprise.

**7.0103 Scope of Utility**

The properties of said 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 City Council of the City and shall by it be operated and maintained in such manner as to provide its service with maximum efficiency and at the minimum cost which is compatible with the plan of operation herein described.

**7.0104 Service Charges - Use of**

Said 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; and to produce surplus net revenues, over and above current principal, interest and reserve requirements, in amounts sufficient to provide reasonable allowances for depreciation and replacement of the utility plus a reasonable return on the City's capital investment therein which surplus net revenues, when actually on hand, and to the extent that they are not required as a reserve for depreciation and replacement, may from time to time be appropriated by the governing board to pay or contribute to the cost of any other City functions, subject to the limitations now or hereafter prescribed by law.

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

**7.0105 Policy on improvements – Extensions**

It is hereby declared to be the policy of the City, subject to such modifications as shall be deemed by the governing body to be required by special circumstances in individual cases, and subject to such modifications as may hereafter be made by ordinance amendatory hereof or

supplemental hereto, that the cost of capital improvements, enlargements and extensions of said utility shall be paid in the following manner:

1. Where water mains not exceeding six inches or sanitary sewer mains not exceeding eight inches in diameter are installed adjacent to residential properties, and where water mains not exceeding eight inches or sewer mains not exceeding ten inches in diameter are installed adjacent to commercial properties, the total cost thereof shall be assessed against the properties abutting on such improvements, in sums proportionate to and not exceeding the total benefits determined to be derived therefrom by the respective properties. Water and sewer mains of the dimensions above described are referred to herein as "lateral" mains and other mains are referred to as "trunk" mains.
2. Where a trunk main is installed, the governing body upon advice of the city engineer shall estimate the probable cost of construction of a lateral main at the same time and place and such estimated cost shall be assessed against the properties abutting on such main and in the manner above provided.
3. Twenty percent of the cost of any sanitary sewer in excess of the estimated cost of a lateral sewer at the same time and place shall be assessed against all properties determined by the governing body to require the immediate construction of such main as a trunk sewer, including properties abutting thereon and properties served or capable of being served by lateral sewers connected thereto, in amounts proportionate to and not exceeding the benefits determined to be derived by said respective properties from such trunk sewer.
4. The total cost of storm sewers shall be assessed against properties within the area determined to be benefited thereby, in amounts proportionate to and not exceeding the benefits determined to be derived therefrom by the respective properties.
5. Where a portion of the benefits of any of the foregoing improvements is deemed to accrue primarily to the City at large, a portion not exceeding twenty percent of the cost thereof, as determined by the governing body with the concurrence of the Board of Budget Review, may be paid by the levy of ad valorem taxes upon all property within the City over the same period as the levies of assessments for such improvements, or any portion or all of such cost may be paid out of current funds duly provided in the budget, or from the proceeds of general obligation bonds duly authorized by the electors.
6. Such portion of the cost of any improvement, extension or addition to the utility as is not paid by special assessments and taxes levied and actually collected in respect thereof shall be paid from the net revenues of the utility.
7. Where due to any error or omissions or to any special circumstances a special assessment is not levied against any property benefited by an improvement at the time of the construction thereof in accordance with the program described in this section, the City

reserves the right to levy a supplemental special assessment upon such property or to impose and collect a special charge for the connection of such property with the utility system in such amount as shall be required to pay its just share of the assessable cost of such improvement.

**7.0106 Utility Fund - Separate Accounts**

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

1. Operation and Maintenance Account. There shall be credited at least once in each calendar month to the Operation and Maintenance Account of said fund, as a first lien and charge on the gross revenues of the utility such sum as shall be needed, over and above any credit balance then held therein, to pay all claims due which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of approximately one month, and to maintain a reasonable reserve for contingencies. Moneys in said account shall be used only to pay expenses of the foregoing type, and not for repairs or replacements or for capital improvements properly chargeable to replacement and depreciation reserves or surplus funds.
2. Principal and Interest Account. The Principal and Interest Account of the Fund, created by resolution adopted in 1976, shall continue to be maintained as provided in the resolution until the payment in full of the improvement warrants issued against said fund.
3. Revenue Bond Account. The net revenues of the utility are herein defined as the aggregate of all sums on hand in the Water and Sewer Utility Fund from time to time in excess of the current requirements defined in (1) and (2) above. The entirety of the said net revenues shall be credited each month to the Revenue Bond Account of the Water and Sewer Fund until there shall have been credited within said account, and thereafter

so much of the net revenues as shall be necessary to maintain at all times, a reserve in an amount at least equal to the sum of the principal and interest payments due within each next succeeding twelve-month period upon all revenue bonds of the City heretofore or hereafter issued and made payable from said accounts. After this reserve has been created, there shall continue to be credited out of the net revenues to the Revenue Bond Account each month, over and above sums required to maintain such reserve, an amount not less than one-twelfth (1/12) of the sum of the principal and interest to become due on all such revenue bonds within the next succeeding twelve months. Moneys in said account shall be used only for the payment of principal and interest as it becomes due on said revenue bonds, and the reserve shall be used for such purpose only when other moneys in the account are insufficient. All revenue bonds heretofore and hereafter issued and made payable from said account, subject to the limitations upon such issuance contained in Section (6) hereof, shall constitute a first lien and charge on the net revenues of said utility without preference or priority of one bond over any other. However, if at any time the moneys in the Revenue Bond Account should be insufficient to make all payments of principal and interest due on such revenue bonds, and cannot be made sufficient by transfer of moneys from the other accounts described below, the moneys available shall be first used to pay interest then accrued on all bonds payable from said account, and any excess moneys available shall be used to pay matured principal of such bonds in order of their maturity dates, provided that moneys available for payment of bonds maturing on the same date shall be prorated equally among such bonds.

4. Improvement Warrant Account. There shall also be maintained in said fund an Improvement Warrant Account, for the purpose of segregating net revenues required for the payment of any portion of the cost of improvements hereafter instituted, for which such revenues have been pledged in accordance with the provisions of Chapter 40-22-15 and 40-22-16 of the North Dakota Century Code of 1943. 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 dales thereof. As among warrants maturing on the same date, such available moneys shall be applied to the warrants of the several issues in proportion to the matured principal amount thereof for the payment of which taxes and assessments in the respective improvement funds are insufficient.

5. Replacement and Depreciation Account. There shall be maintained a Replacement and Depreciation Account, into which there shall be credited and paid as received, except as otherwise stated below, all net revenues in excess of the current requirements of the other accounts above described. In said account there shall be maintained such balances as the governing body shall from time to time determine to constitute an adequate reserve for depreciation and replacement of the utility, which reserve may be used to redeem prior to maturity obligations payable from the net revenues as and when the same become pre-payable according to their terms, or to replace worn out or obsolete properties of the utility, or to make extensions, enlargements or improvements thereto. Any moneys in said account determined to be surplus to the immediate requirements therefore may be invested or may be transferred to other City funds in the discretion of the Board, in the manner and subject to the limitations set forth in Section 40-33-12 of the North Dakota Century Code; and any acts amendatory thereof or supplemental thereto.
6. Moneys on Hand. The moneys on hand in any of the accounts of the Water and Sewer Utility Fund shall at all times be available and shall be used to the extent necessary to restore any deficiency in the funds on hand in any of the preceding accounts, in the order listed above, for the fulfillment of the requirements of such preceding accounts as herein defined.
7. Additional Accounts. The City also reserves the right to create additional accounts within the Water and Sewer Utility Fund for the purpose of segregating any surplus net revenues which may be pledged and appropriated to the payment of obligations hereafter issued to finance improvements, enlargements or extensions of said utility, other than the obligations made payable from the Revenue Bond Account and the Improvement Warrant Account, pursuant to the authority for such issuance reserved in Section 7.0107 hereof. Moneys on hand in any such account shall at all times be available for and used to the extent necessary to meet the current requirements of all of the foregoing accounts except the Replacement and Depreciation Account.

**7.0107 Provisions for Financing Capital improvements**

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

1. For the purpose of this section, whenever the net revenues of the utility hereinabove appropriated to the Improvement Warrant Account are pledged to pay a portion of the cost of any improvement to be financed by improvement warrants, such warrants and the interest accruing thereon shall be deemed to be payable from said net revenues in the same proportion as that part of the cost payable from said net revenues bears to the principal amount of such warrants. The portion of costs payable from net revenues shall be deemed equal to the principal amount of the warrants less the principal amount of the taxes and assessments agreed to be levied for the payment thereof.
2. Except as provided in parts (3) and (4) below, no obligations shall be issued and made payable from the Revenue Bond Account or the Improvement Warrant Account at any time unless the net revenues of the utility, as defined in Section 7.0106 (3) hereof, received during the next preceding fiscal year, shall have been in an aggregate amount at least equal to 1253 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 1253 of the net revenues actually received during such year.
3. Refunding revenue bonds may be issued for the purpose of prepaying and refunding bonds payable from the Revenue Bond Account when and as they become pre-payable according to their terms, in the manner and to the extent permitted by law, provided that such refunding revenue bonds shall be subject to the requirements set forth in part (2) hereof, as applied to the past net revenues and future principal and interest requirements as of the date of the issuance of such refunding revenue bonds. However, the City shall and does hereby also reserve the right and privilege of issuing refunding revenue bonds, when permitted by law, for the maturities of any bonds payable from the Revenue Bond

Account which have matured and for the payment of which the moneys in the Revenue Bond Account are insufficient, and cannot be made sufficient by transfer of moneys from other accounts, and such refunding revenue bonds shall be payable from the Revenue Bond Account on a parity as to interest with all then outstanding bonds payable therefrom, but the maturities of such refunding revenue bonds shall be subsequent to the maturities of all such outstanding bonds. Nothing herein shall be deemed to require the holder of any revenue bond to accept a refunding revenue bond in exchange therefore.

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

**7.0108 Agreements with Bond and Warrant Purchasers**

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

1. It will complete all improvements financed by the issuance of such obligations with due diligence and with the greatest economy consistent with good workmanship and efficient results, and will do so without creating or permitting the creation of any liens or encumbrances on said utility or on the revenues thereof other than the liens and charges of said revenues expressly authorized in this article.
2. As long as any obligations payable from said accounts are outstanding, it will continue to own and operate said utility as a municipal utility, free from all competitions as to the services thereby provided and in good and efficient operating condition.
3. It will at all times maintain a schedule of rates, charges and rentals for all services, facilities, commodities and benefits furnished by said utility and will impose and collect the same in amounts at least sufficient to make the minimum payments into the respective accounts of the Water and Sewer Utility Fund as specified in Section 7.0 I06 hereof, and will revise such schedules in such manner and as often as needed to perform this covenant.
4. Under each such schedule, the City shall be obligated to pay and will pay from its other funds to the Water and Sewer Utility Fund a fair and equitable amount for any and all services, facilities, commodities and benefits furnished to the City or any of its departments by the utility.
5. It will at all times maintain books of account adequate to show all receipts and disbursements of the City respecting the utility, and application of such receipts to the purposes of the several accounts described in Section 7.0106 hereof, which books of account shall be open to inspection by the holder of any obligation payable from the Revenue Bond Account or the Improvement Warrant Account at any reasonable lime. The City will furnish a certified transcript therefrom of any information which any such bond or warrant holder may request, upon payment of a reasonable fee therefore.
6. It will cause the annual financial statement of the City required by the provisions of Section 40-1 6-05 of the North Dakota Century Code to include a statement as to the financial condition and the receipts and disbursements of the Water and Sewer Utility Fund and of its several accounts during each fiscal year, and will furnish a copy of such statement to the original purchaser of each issue of bonds or warrants upon request.
7. Upon written demand of the holder of twenty percent or more of the bonds or warrants of any issue payable from the Revenue Bond Account or Improvement Warrant Account and then outstanding, it will cause an audit of the books of account of the utility to be made by a certified public accountant satisfactory to the holders of such obligations, the cost thereof to be paid as an operating expense of the utility and will furnish a copy of the report of any such audit to such party as shall be designated in such demand.

8. It will at all times keep the properties of said utility insured in reasonable amounts against loss or damage by fire, tornado and other risks for which similar properties are customarily insured by prudent owners, and will carry adequate public liability insurance, insuring against any claim of personal injury of property damage which is or may become a charge against the revenues of the utility, and 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, and the City will use the proceeds of any such insurance and bonds to restore the loss or damage compensated thereby.
9. The City and its governing body and each and all of its officers will punctually perform all duties with reference to said utility and the revenues thereof and the obligations issued hereunder which are imposed by the ordinances and resolutions of the City in force on the date upon which any such obligations are issued and all provisions of the Constitution and laws and of such ordinances and resolutions which are provide security for the holders of bonds issued hereunder are acknowledged to be a part of the City's contract with the holders of such obligations; provided that nothing herein shall be deemed to preclude the City from modifying the policies set forth in Section 7.0105 hereof with reference to any improvements constructed and financed after the effective date of such modification.
10. The holders of twenty percent or more in principal amount of each issue of bonds or warrants payable from the Revenue Bond Account or the Improvement Warrant Account and at the time outstanding shall be privileged, and are hereby empowered, to institute and maintain, on behalf of the holders of all outstanding obligations of the same issue, any suit or proceeding at law or in equity for the protection and enforcement of any covenant, agreement or stipulation herein provided to be performed or observed by the City or its governing body or any of its officers, whether or not any such obligations are then in default as to principal and interest. Each and all of the rights and remedies provided by Sections 40-35- 15 and 40-35-19 of the North Dakota Century Code are hereby acknowledged to be available to the holders of such obligations.

**Article 2: Water Services**

**7.0201 Water System**

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

**7.0202 Superintendent of City Water and Sewer Department**

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

**7.0203 Same: Reports**

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

**7.0204 Application for Water Service and Service Connection Charge**

Any party desiring water and sewer service from said utility for premises not heretofore connected with the system, and not subject to the provisions of section 7.0205 set forth below, shall apply for a connection on a form provided by the municipality. 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 a one-time fee of $1000.00 a residential building, commercial building or multiple dwelling.

**7.0205 Water Service- To Property Not Previously Assessed**

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

**7.0206 Subsequent Connection to Premises**

Any party, other than the original applicant, desiring service for premises where a connection has been made pursuant to Sections 7.0204 and 7.0205 hereof shall make written application therefore as in cases described in Section 7.0204 hereof, 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 Section 7.0204 and 7.0205 hereof.

**7.0207 Separate Connections for each Premise- Exceptions**

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 7.0222.

**7.0208 Service Outside City Limits- Prohibited- Exception**

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

**7.0209 Service in Unplatted Area**
OMITTED

**7.0210 Water Service- Construction of- Maintenance of by Owner**
The cost of original installation of all plumbing between the main and any service devices maintained by the consumer and all extensions made to such plumbing, as well as all repairs, shall be borne entirely by the consumer, although such plumbing and services as well as the meters shall at all reasonable times be subject to inspection by duly authorized representatives of the municipality. Any repairs found to be necessary by such representatives shall be made promptly, or the municipality will discontinue service.
All services shall be constructed by licensed plumbers at the owner's expense, and each service shall be maintained by the owner. Services heretofore acquired by the issuance of special assessment warrants and assessed against the property, or which may be acquired in the future in like manner, shall likewise be maintained by the owner. Services means the service like running from the point of connection with the city main to owner's premises.

**7.0211 Water Meters- Checked- Fees**
Every consumer of water shall provide a suitable place where a water meter can be installed and each consumer shall supply, maintain and change when necessary, the same, and **if** at any time the consumer desires to have the meter tested for accuracy, the same shall be done by the municipality and a fee of $10.00 charged therefore to the consumer if the meter registers less than 98% accurate. If the meter registers less than 98% accurate, it shall be replaced and the fee refunded.

**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 municipal water system except when drawn through a meter installed by the municipality. No person except an authorized representative of the Utility Superintendent 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 city auditor on or before the _____ day of the month next succeeding such defective service, or be deemed waived by the claimant; and if such claims so filed, I\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, and, if 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 municipality for any fire or any injuries to the person or property of any consumer of water or sewer service under the provisions hereof.

**7.0214 Users Consent to Regulations**

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

**7.0215 Regulations Governing Service**

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

1. Shutting Off Water - Who Authorized. No person except an authorized employee of the water department shall shut off or turn off the water at the curb cock to any premises without first obtaining permission from the water department.
2. City Reserves Right to Shut Off Water - Notice. In the case of making repairs or constructing new work, the City reserves the right to shut off the water at once and keep the same shut off as long as may be necessary to accomplish such purposes. Service may also be discontinued for nonpayment of bills or for disregard of rules and regulations affecting the services.
3. Non-liability of City for Deficient Supply or Quality of Water. It is expressly provided that the City shall in no event be or become liable to any consumer of water for a deficiency in the supply of water or the quality thereof, whether by shutting off the same to make repairs or to construct new work or for any other cause whatsoever.
4. Shutting Off Water – Charge for. The water department shall make a charge of $25.00 each for shutting off or turning on services. The fee shall increase to $50.00 each for shutting off or turning on services for after normal business hours and holidays.
5. Entrance and Access to Premises by Waterworks Employees. Authorized employees of the water and sewer department shall have free access to any premises supplied with water, at proper times, to inspect and ascertain the condition of the meters and fixtures, or for reading meters, and no owner or occupant shall refuse such employees such access. The water department shall have the right to enter any premises and remove the meter for the purpose of examination and test after first notifying the owner or occupant, and to shut off the water to premises where free access is prevented.

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

**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 stop installed in an iron box to which the service is to be connected by the individual, his/her agent or employee under the supervision, direction and control of the water and sewer department. Ten feet spacing shall be allowed between all water and sewer lines in new connections to service. Failure to comply with this section shall be considered a disregard of the rules of the department and service to the affected property can be withheld or discontinued as the case may be.

**7.0217 Service Pipes Specifications**

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

**7.0218 Curb Stop Specifications**

There shall be a curb stop in every service line attached to the water mains, the same to be placed as near as possible to the curb if on a street, or within one foot of the alley line if the main is located in the alley. Curb stops shall be supplied with strong and suitable "T" handles and shall be enclosed in a substantial iron case covered with a tight fitting iron lid with the letter "W" cast upon it. There shall be one or more stops and waste cocks attached to every supply pipe at some point between the curb stop 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 stem 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 Use of Water During Fire- Unlawful**

It is hereby declared to be unlawful for any person in this municipality or any person owning or occupying premises connected to the utility to use or allow to be used during a fire any water

from said utility except for the purpose of extinguishing said fire; and upon the sounding of a fire alarm, it shall be the duty of every such person to see that all water services are tightly closed and that no water is used, except for necessary household purposes during said fire.

**7.0221 Waterworks Customers May Lay Larger Pipes with Hydrants- When**

Whenever proprietors of lumber yards, manufactories, halls, stores, hotels, public buildings or regular customers from the water works wish to lay larger pipes with hydrants and hose couplings, to be used only in case of fire, they will be permitted to connect with the street main at their own expense, upon application for a permit to the city auditor, and under the direction of the City Council will be allowed the use of water, for fire purposes only, free of charge. No standpipe will be allowed on the premises where the water is not taken for other than fire purposes.

**7.0222 Rates and Charges**

Water and sewer rates shall be fixed from time to time by resolution of the governing body and the City reserves the right to change the rates from time to time as it deems best. The resolution fixing water and sewer rates and charges shall be kept on file in the office of the city auditor and shall be open for public inspection. Any change in the rates or charges shall be published at least one time within ten (10) days from adoption in the official newspaper of the city.

**7.0223 Rates and Charges- Liability for**

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

**7.0224 Duty to Report to Auditor**

Every owner or operatory of a multiple dwelling unit shall file with the City Auditor a report indicating the total number of units under his control. Every owner or operator of a mobile home park shall file with the City Auditor a report indicating the total number of units in the

park and shall further notify the City Auditor of any changes in the number of units in the park if the number increases or decreases.

**7.0225 Excavators**

No person, firm or corporation shall excavate in or on any street, alley or other public place for the purpose of installing any water and/or sewer connection until they have complied with the provisions of Sections 3.0220 through 3.0227 of Chapter 3 of these ordinances.

**7.0226 Restriction of Use of Water**

The City Council of the City of Wilton 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 for the general public an adequate supply of water for consumption and use by the general public.

**Article 3: Regulation of Sewer Use**

**7.0301 Purpose**

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

**7.0302 Definitions**

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

1. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter.
2. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.
4. "Combined Sewer" shall mean a sewer intended to receive both wastewater and storm or surface water.
5. "Easement" shall mean an acquired legal right for the specific use of land owned by others.
6. "Floatable Oil" is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
7. "Garbage" shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
8. "Industrial Wastes" shall mean the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.
9. "Natural Outlet" shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.
10. "May" is permissive (see "shall," Sec. 18).

11. "Person" shall mean any individual, firm, company, association, society, corporation or group.
12. "pH" shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has pH value of 7 and a hydrogen-ion concentration of 10-7.
13. "Properly Shredded Garbage" shall mean 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 1/2 inch (1.27 centimeters) in any dimension.
14. "Public Sewer" shall mean a common sewer controlled by a governmental agency or public utility.
15. "Sanitary Sewer" shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.
16. "Sewage" is the spent water of a community. The preferred term is "wastewater," Sec. 24.
17. "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.
18. "Shall" is mandatory (see "may," Sec. 10).
19. "Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
20. "Storm Drain" (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.
21. "Superintendent" shall mean the superintendent of wastewater facilities, and/or of wastewater treatment works, and/or of water pollution control of the City or an authorized deputy, agent or representative.
22. "Suspended Solids" shall mean 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 nonfilterable residue.
23. "Unpolluted Water" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
24. "Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water- carried wastes from residences,

commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.

25. "Wastewater Facilities" shall mean the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.
26. "Wastewater Treatment Works" shall mean an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."
27. "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.
28. "Hearing Board" shall mean that board appointed according to the provisions of Section 7.0209.

**7.0303 Use of Public Sewers Required**

1. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City of Wilton, North Dakota or in any area under the jurisdiction of said Wilton, North Dakota, any human or animal excrement, garbage or other objectionable waste.
2. It shall be unlawful to discharge to any natural outlet within the City of Wilton, North Dakota or in any area under the jurisdiction of said City of Wilton, North Dakota any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.
3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
4. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City of Wilton, North Dakota, 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, the City of Wilton, North Dakota 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 _____ days after date of official notice to do so, provided that said public sewer is within 200 feet (61 meters) according to the North Dakota plumbing code of the property line.

**7.0304 When Private Sewage Disposal Permitted**

1. Where a public sanitary or combined sewer is not available under the provisions of Section 7.0303 (4), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article. Those properties with an existing private sewage disposal must connect to the public sanitary or combined sewer when the private system fails and meets provisions under Section 7.0303 (4).
2. Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the superintendent. A permit and inspection fee of _____ shall be paid to the City at the time the application is filed.
3. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. The superintendent shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the superintendent.
4. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations and/or regulations of the North Dakota State Department of Health and Uniform Plumbing Code. No permit shall be issued for any private wastewater disposal system not meeting these conditions. No septic tank or cesspool shall be permitted to discharge to any natural outlet or to the ground surface.
5. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 7.0303 (4), a direct connection shall be made to the public sewer within sixty (60) days in compliance with this ordinance, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.
6. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City. All sludge or solids, to be disposed of from a septic tank, cesspool or other individual method of disposal shall be disposed of by a licensed septic tank pumper in accordance with Section 23-19-01 of the North Dakota Century Code.
7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the local health officer.

**7.0305 Building Sewers and Connections**

1. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the 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 _____ for a residential or commercial building sewer permit and _____ for an industrial building sewer permit shall be paid to the City at the time the application is filed.
3. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
4. A separate and independent 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 but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.
5. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this ordinance.
6. The size, slope alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of suitable code provisions, specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No.9 shall apply.
7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
8. No person shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer, or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such

connection is approved by the superintendent and the North Dakota State Department of Health.

9. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gaslight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.
10. The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the superintendent or his representative.
11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

**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.

c. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.
d. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal. glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

4. The following described substances, materials, waters or waste shall be limited in discharges to city systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property or constitute a nuisance. The superintendent may set limitations lower than the limitations established in the regulations below if in his/her opinion such more severe limitations are necessary to meet the above objectives. In forming his/her 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 7.030213). 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 su.ch materials.

f. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the superintendent.
g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
h. Quantities of flow, concentrations or both which constitute a "slug" as defined herein.
i. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such a degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
j. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious lo 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 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 sewer charges under the provisions of 7.0306 (11).

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

6. Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in 7.0306 (4) (c), or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the North Dakota Plumbing Code and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these

interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates, and means of disposal which are subject to review by the superintendent. Any removal and having of the collected materials not performed by owner personnel must be performed by currently licensed waste disposal firms.

7. Where pretreatment or flow-equalizing facilities are provided or required by any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
8. When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structures, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the superintendent. The structure shall be installed by the owner at his/her expense and shall be maintained by the owner so as to be safe and accessible at all times.
9. The superintendent may require a use of sewer services to provide information needed to determine compliance with this ordinance. These requirements may include:
    a. Wastewaters discharge peak rate and volume over a specified time period.
    b. Chemical analyses of wastewaters.
    c. Information on raw materials, processes and products affecting wastewater volume and quality.
    d. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
    e. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
    f. Details of wastewater pretreatment facilities
    g. Details of systems to prevent and control the losses of materials through spills to the municipal sewer
10. All measurements, test and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis by the superintendent.
11. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

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

**7.0309 Hearing Board**

1. A hearing board, consisting of three (3) members, shall 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 as each dispute arises.

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

**7.0310 Penalties**

1. Any person found to be violating any provision of this ordinance except Section 7.0307 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Any person who shall continue any violation beyond the time limit provided for in Section 7.031O (l), shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding one hundred dollars($100.00) for each violation. Each day in which any such violation shall continue 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**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.
The validity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

**Article 4: Sewer Surcharge**

**7.0401 Purpose**

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

The definitions set forth in Section 7.0302 of this chapter shall also apply to this article.

**7.0402 Determining the Total Annual Cost of Operation and Maintenance**

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

**7.0403 Determining Each User's Wastewater Contribution Percentage**

The City of Wilton or its City Engineer, shall determine for each user's average daily volume of wastewater, which has been discharged to the wastewater system, which shall then be divided by the average daily volume of all wastewater discharged to the wastewater system, to determine such user's Volume Contribution Percentage. The amount used as the total average daily volume of wastewater shall exclude infiltration and inflow. The City of Wilton or its City Engineer, shall determine each user's average daily poundage of 5-day 20-degree Centigrade Biochemical Oxygen Demand which has been discharged to the wastewater system which shall then be divided by the average daily poundage of all 5-day 20- degree Centigrade Biochemical Oxygen Demand discharged tot eh wastewater system to determine each user's Biochemical Oxygen Demand Contribution Percentage.

The City of Wilton or its City Engineer, shall determine for each user's average daily poundage of suspended solids which has been discharged to the wastewater system which shall then be divided by the average daily poundage of all suspended solids discharged to the wastewater system, to determine such user's Suspended Solid Contribution Percentage. Each user's Volume Contribution Percentage, Biochemical Oxygen Demand Contribution Percentage and Suspended Solids Contribution Percentage shall be multiplied by the annual operations and

maintenance costs for the total volume, the total 5-day 20-degree Centigrade Biochemical Oxygen Demand and the Total Suspended Solids for the wastewater system, respectively.

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

The City of Wilton or its City Engineer, will determine the average Total Suspended Solids (TSS) and Biochemical Oxygen Demand (BOD) daily loading for the average residential user and residential user class. The users discharging wastes with volume, BOD and TSS strengths greater than the average residential user. Such users will be assessed a surcharge sufficient to cover the costs of treating such users above-normal strength wastes and/or volume. Normal strength waste are considered to be 200 mg/1 BOD and 250 mg/1 TSS.

**7.0405 Surcharge Rate Schedule for Above Normal Volume of Wastes**

Residential users are considered to be one class of user and are hereby levied a charge of _____ per month. Non-residential users with flows no greater than the average residential user's flow of 4000 gallons per month and with BOD and TSS no greater than the average residential users strength will be levied the same charge of _____ per month as the average residential user.

Non-residential users with volumes greater than the average residential user will pay an additional charge of 60 cents per 1,000 gallons per month for all flows greater than the average user's flow of 4000 gallons per month.

**7.0406 Surcharge Rate Schedule for Above Normal Strength Wastes**

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

The City of Wilton or its Engineer may determine the total suspended solids (TSS) and 5-day biochemical oxygen demand (BOD5) daily loading for the average residential user and or user class or in lieu of such determinations can consider the average residential strength wastes to be 200 mg/1 BOD5 and 250 mg/1 TSS. The City of Wilton will assess a surcharge rate for all non-residential users discharging waste with BOD and TSS strengths greater than the average residential user. The Surcharge will be sufficient to cover the costs of treating such users above normal strength wastes. Such users will pay an additional users charge of ___ cents per 1000 gallons for each 25 mg/1 or fraction thereof over 200 mg/1 of BOD5 and _____ cents per 1000 gallons for each 25 mg/1 or fraction thereof over 250 mg/1 TSS.

**7.0407 Determining Each User's Wastewater Service Charge**

Each non-residential user's wastewater cost contribution as determined in Sections 7.0405 and 7.0406 shall be added together to determine such user's annual wastewater service charge. Residential users may be considered to one class of user and an equitable service charge may be determined for each user base on an estimate of the total wastewater contribution of this

class of user. The governing body may classify industrial, commercial and other non-residential establishments as a residential user, provided that the wastes from these establishments are equivalent to the wastes from the average residential user with respect to volume, Suspended Solids and 5-day 20-degree Centigrade Biochemical Oxygen Demand. Each user's wastewater treatment cost contribution will be assessed in accordance with the attached rate schedule.

**7.0408 Payment of the User's Wastewater Service Charge and Penalties**

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

**7.0409 Review of Each User's Wastewater Service Charge**

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

**7.0410 Wastes Prohibited from Being Discharged to the Wastewater System**

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

## Article 5: Adoption of State Plumbing Code

### 7.0501 Adoption

To promote and protect the public health there is hereby adopted the State Plumbing Code, which has been adopted by the State Plumbing Board and approved by the State Health Department, consisting of rules and regulations governing plumbing work, and the whole thereof, of which not less than 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 of Wilton shall comply with said code.

### 7.0502 Plumbing Code - Enforcement of Provisions

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

### 7.0503 Plumbing Code - Changes in Existing Installations

The superintendent of the water and sewer department is hereby given authority to order the repair, alteration or removal of any sanitary sewer connection or plumbing, any connection to storm water sewer, or any private sanitary drain, cesspool or privy, which in his 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 his/her directions, he/she 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 his/her direction.

### 7.0504 Plumbing Code - New Installations

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

## Article 6: General Penalty Provision

### 7.0601 Penalty for Violation of Chapter

Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of an infraction and, upon conviction thereof shall be fined a sum set by the District Court, not exceeding five hundred dollars ($500.00) for each violation.

## Article 7: Residential Pools

### 7.0701 Residential Pools

Residential pools are subject to the following:

1. Private swimming pools in residential areas may be located only in the rear yard and no part of the pool may be less than four feet from any property line. Equipment enclosures and any other above grade pool-related structures in the zoning district in which the pool is located.
2. No cross-connection is allowed between any private swimming pool and city water supply.
3. Private pools may not be located, designed, operated or maintained as to interfere unduly with the enjoyment of the property rights of the adjacent property owners.
4. An admission fee may not be charged for the use of any private swimming pool located within the city.
5. Lights used to illuminate any private swimming pool must be so arranged and shaded as to reflect light away from the adjacent premises.
6. Each pool must be enclosed with a tight fence of wood or other smooth material constructed in such a manner that it does not provide hand and foot holds that make it easily climbable or a chain link fence not less than eleven gauge with exposed barbs at the upper edge. The fence must be six feet in height if placed on the property line and not less than six feet in height if set back from the property line. Openings into the pool shall be only through a self-closing and self-locking gate.

**Appendix A**

**SURCHARGE RATE SCHEDULE FOR ABOVE NORMAL STRENGTH WASTES**

The City of Wilton or its engineer, has determined that the average total suspended solids (TSS) and 5-day biochemical oxygen demand (BOD5) daily loading for the average residential user are 200 mg/1 BOD5 and 250 mg/1 TSS. The City of Wilton or its engineer, has assessed a surcharge rate for all non-residential users discharging wastes with BOD and TSS strengths greater that the average residential user. The surcharge will be sufficient to cover the costs of treating such users' above normal strength wastes. Such users will pay an additional service charge of _____ cents per 1,000 gallons for each 25 mg/1 or fraction thereof over 200 mg/1 of BOD5 and ____ cents per 1,000 gallons for each 25 mg/1 or fraction thereof over 250 mg/1 of TSS.

# 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 upon application blanks furnished by the city auditor and shall file the same with the city auditor, stating the purpose for which the license or permit is desired, for what length of time, the place where his business is to be carried on; if required to file a bond before being licensed he shall also name his proposed sureties on his bond in his application..

### 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 shall not feel authorized to grant any particular application for license or permit for any purpose not named by ordinance, the city auditor shall report such application to the next meeting of the governing body for their action thereon.

### 8.0104 License- Terms

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 the first day of July and expire on the last day of June and the last day of December respectively.
3. No license or permit shall be valid until signed and sealed nor shall any persons be deemed licensed until a license shall be duly issued to him.
4. Each license shall be dated the day of issuance thereof; but if the applicant or applicants shall have been acting without a license, the license shall commence with the date business commenced. If the business calls for a yearly license, then a license shall commence on the first day of January in the year for which the license shall be issued.
5. The date of issuance of the license, together with the time of commencing and expiration shall be given in the license and the license record.

**8.0105 Licenses - Not Transferable**

No license or permit shall be assignable or transferable except by permission of the governing board. No person other than the person to whom the license is granted shall be authorized to do business or act under such license or at any other than the place specified therein. The City may grant the continuance of the business licensed to any other portion of the City, such permission to be certified on the license by the city auditor. No license shall authorize any person to act under it at more than one (1) place at the same time, or at any other place than is therein specified. Whoever shall violate any of the provisions of this section shall be deemed to be acting without a license and shall be subject to the same penalty as prescribed for acting without a license.

**8.0106 Licenses - Revocation**

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

Where not otherwise provided, any license may be revoked by the governing board at any time for cause. "Cause" shall include, but not be limited to, the following:

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

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

**8.0107 Licenses - Posting of**

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

**8.0108 Licenses - Short Term**

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

**8.0109 Licenses – Enforcement**

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

**Article 2: Transient Merchants**

**8.0201 Definitions**

For the purpose of this article:

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

**8.0202 License Required**

It shall be unlawful to do business in the City as a transient merchant without having first secured a license therefore as is herein provided. For the purpose of this article, any merchant engaging or intending to engage in business as a merchant in the City for a period of time not exceeding l00 days shall be considered as a transient merchant, provided peddlers shall not be considered transient merchants.

**8.0203 License Fee**

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

**8.0204 License - Application for**

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

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

**8.0205 Bond**

Before any license shall be issued to a transient merchant for engaging in business in the city, the applicant therefore shall file with the City Auditor a bond running to the city in the sum of $1,000.00 executed by the applicant, as principal, and a responsible surety upon which service of process may be made in the State of North Dakota; said bond not to be revocable nor to terminate prior to passage of two years time after the expiration of the license issued pursuant thereof nor until due notice that the terms of the bond are to be canceled has been given to the City Auditor; said bond to be approved by the City Attorney, conditioned that the said 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 and will pay all judgments rendered against said applicant for any violation of said ordinances or statutes, or any of them, together with all judgments and costs that may be recovered against him by any person or persons for damage growing our of any misrepresentation or deception practiced on any person transacting such business with such applicant, whether by their servants, agents, or employees, or 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 his 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, which said instrument shall also contain recitals to the effect that the applicant for said 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 at his last known address, by registered mail, a copy of said process.

**8.0207 Exhibiting License**

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

**8.0208 Transfer**

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

**8.0209 Enforcement by Police**

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

**8.0210 Revocation**

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

**8.0211 Expiration of License**

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

**Article 3: Hawkers and Peddlers**

**8.0301 Definitions**

The word "person" as used herein shall include the singular and the plural and shall also mean and include any person, firm or corporation, association. club, co- partnership or society or any other organization. The words "hawker" and "peddler" as used herein shall include any person, whether a resident of the City or not. Travelling 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, or 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, and further provided one who solicits as a part of a scheme or design to evade the provisions of this article shall be deemed a hawker or peddler subject to the provisions of this article.

**8.0302 License Required**

It shall be unlawful for any person to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefore.

**8.0303 Exceptions**

No license shall be required for peddling, vending or marketing farm products raised in the State of North Dakota, fish, vegetables, fruits, nuts, cake, candy, ice cream or other light products or refreshments.

**8.0304 License - Application for**

Applicants for license under this article must file with the city auditor a sworn application in writing, which shall give the following information:

1. Name, age and sex of the applicant:
2. Address (legal and local):
3. A brief description of the nature of the business and the goods to be sold;
4. If employed, the name and address of the employer, together with credentials establishing the exact relationship;
5. The length of time for which the right to do business is desired;
6. If a vehicle is to be used, a description of the same, together with license number: and
7. A statement as to whether or not the applicant has been convicted of any crimes, misdemeanors or violations of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore.

**8.0305 Fees**

The license fee to be required of all hawkers and peddlers for the transaction of business within the City shall be in the sum of $25.00 per day for each day or portion of the day which any such hawker or peddler shall transact business in the City,

**8.0306 Exhibition of License**

Hawkers and peddlers are required to exhibit their licenses at the request of any citizens.

**8.0307 Transfer**

No license issued under the provisions of this article shall be transferred or used at any time by any person other than the one to whom it was issued.

**8.0308 Use of Streets**

No hawker or peddler shall have any exclusive right to any location in the public streets nor shall any be permitted to a stationary location nor shall be permitted to operate in any congested area where his/her operations might impede or inconvenience the public. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

**8.0309 Enforcement**

It shall be the duty of any police officer of this City to require any person seen hawking or peddling, and who is not known by such officer to be duly licensed, to produce his/her license and to enforce the provisions of this article against any person found to be violating the same.

**8.0310 Revocation**

1. Licenses issued under the provisions of this article may be revoked by the governing body of the city after notice and hearing for any of the following causes:
    a. Fraud, misrepresentation or false statement contained in the application for license;
    b. Fraud, misrepresentation or false statement made in the course of carrying on his business
    c. Any violation of this article;
    d. Conviction of any crime or misdemeanor involving moral turpitude;
    e. Conducting the business of hawking or peddling in an unlawful manner or in such a manner as to constitute a breach of peace or 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.

**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/herself, 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 Exceptions**

No license shall be required hereunder for runners, solicitors or canvassers of regular retailers of goods, wares and merchandise and personal property, but only for those runners, solicitors and canvassers selling directly to the consumer.

**8.0403 Licensed 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 license therefore.

**8.0404 License - Application for**

Applicants for license under this article must file with the city auditor a sworn application in writing, which shall give the following information:

1. Name, age and sex of the applicant:
2. Address (legal and local):
3. A brief description of the nature of the business and the goods to be sold;
4. If employed, the name and address of the employer, together with credentials establishing the exact relationship;
5. The length of time for which the right to do business is desired;
6. If a vehicle is to be used, a description of the same, together with license number: and
7. A statement as to whether or not the applicant has been convicted of any crimes, misdemeanors or violations of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore.

**8.0405 Fees**

The license fee to be required of all runners, solicitors and canvassers for the transaction of business within the City shall be in the sum of twenty-five dollars ($25.00) per day for each day or portion of the day which such runner, solicitor or canvasser shall transact business in the City.

**8.0406 Exhibition of License**

Runners, solicitors and canvassers are required to exhibit their licenses at the request of any citizen.

**8.0407 Transfer**

No license issued under the provisions of this article shall be transferred or used at any time by any person other than the one to whom it was issued.

**8.0408 Use of Streets**

No runner, solicitor or canvasser shall have any exclusive right to any location in the public streets nor shall any be permitted a stationary location nor shall be permitted to operate in any congested area where his/her operations might impede or inconvenience the public. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

**8.0409 Enforcement**

It shall be the duty of any police officer of this City to require any person seen hawking or peddling, and who is not known by such officer to be duly licensed, to produce his/her license and to enforce the provisions of this article against any person found to be violating the same.

**8.0410 Revocation**

1. Licenses issued under the provisions of this article may be revoked by the governing body of the city after notice and hearing for any of the following causes:
    a. Fraud, misrepresentation or false statement contained in the application for license;
    b. Fraud, misrepresentation or false statement made in the course of carrying on his business
    c. Any violation of this article;
    d. Conviction of any crime or misdemeanor involving moral turpitude;

e. Conducting the business of hawking or peddling in an unlawful manner or in such a manner as to constitute a breach of peace or 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.

## Article 5: Solicitation Without Invitation

### 8.0501 Solicitation with Invitation Prohibited

The practice of going in and upon private residence or privately owned property in the city by solicitors, peddlers, hawkers, itinerant merchants, transient vendors of merchandise, photographers and magazine and periodical subscription agents, not having been requested or invited to do so by the owner or owners, occupant or occupants of such private residences or private property, for the purpose of soliciting orders for the sale of goods, wares, and merchandise and/or for the purpose of disposing of and/or peddling or hawking the same, and for the purpose of soliciting subscriptions to magazines or periodicals and/or for the purpose of taking photographs is hereby declared to be a nuisance and unlawful.

### 8.0502 Enforcement

The Chief of Police and all police officers in the city are hereby required and directed to suppress the same and to abate any such nuisance as described in 8.0501.

**Article 6: Alcoholic Beverages**

**8.0601 Definitions**

For the purpose of this article:

1. "Alcoholic Beverages" shall mean any liquid suitable for drinking by human beings, which contains one-half of the one percent or more if alcohol by volume.
2. "Beer shall mean any malt beverage containing more than one-half if one percent of alcohol by volume.
3. "Licensee" shall mean any person, firm, corporation, association, or club which shall have secured a license pursuant to provisions of this chapter or their agent or employee.
4. "Liquor" shall mean any alcoholic beverage except beer.
5. "Person" shall mean and include any individual, firm, corporation, association, club, co-partnership, society or any organization; and shall include the singular and the plural.
6. "Sale" and "sell" shall mean all manner or means of furnishing alcoholic beverages, including the selling, exchange, barter, disposition of, and keeping for sale of such alcoholic beverages.
7. "Package" and "original package" shall mean and include any container or receptacle containing and alcoholic beverage, which container or receptacle is corked or sealed by the manufacturer thereof and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser.
8. "Club" or "lodge" shall include and 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 and which was in existence on November 3, 1936.
9. "Retail sale" shall mean the sale of alcoholic beverages for use or consumption and not for resale.
10. "Off sale" shall mean the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license shall authorized the person named therein to conduct such off-sale only at the place designated in such license and not elsewhere, and shall not permit the opening of the package sold on the premises where sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.
11. "On-sale" shall mean the sale of alcoholic beverages for consumption only on the premises where sold, and an on-sale license shall authorize the licensee to conduct such on-sales only at the place designated in such license and not elsewhere.

**8.0602 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 regulations thereunder
   b. Patent, Proprietary, medical, pharmaceutical, antiseptic and toilet preparations.
   c. Flavoring, extracts, syrups and food products

**8.0603 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.

**8.0604 License – Class of – Fee**

1. Liquor Licenses will be classed as follows:
   a. Class I License: All Combination Off & On Sale Liquor Licenses.
   b. Class II License: All Combination on Sale Liquor & Beer Licenses Only.
   c. Class III License: All on Sale Beer Only License.
   d. Class IV License: All Combination Off Sale Liquor & Beer Licenses.
   e. Class V License: On Sale Liquor & Beer License to be used for scheduled (appointment) events only.
   f. Class VI License: On sale Beer and Wine Only.
2. Hours of operations will be set for each class as follows:
   a. Class I:
      8:00 a.m. to 1:00 a.m. on weekdays
      8:00 a.m. to 1:00 a.m. Saturday and evenings preceding legal holidays per state statute
      12:00 noon to 1:00 a.m. Sundays.
   b. Class II:
      11:00 a.m. to 1:00 a.m. on weekdays
      11:00 a.m. to 1:00 a.m. Saturday and evenings preceding legal holidays per state statute
      12:00 noon to 1:00 a.m. Sundays.
   c. Class III: Same as Class II
   d. Class IV: Same as Class I

   e. Class V: Same as Class II
   f. Class VI: 11:00 a.m. to 1:00 a.m.
3. Legal Holidays as set forth by state law will be days in which all licensed establishments will be closed.
4. The annual fee for the licenses are:
   a. Class I: $ 1,000.00
   b. Class II: $ 750.00
   c. Class III: $ 500.00
   d. Class IV: $ 1000.00
   e. Class V: $ 750.00
   f. Class VI: $ 500.00

   These fees are payable July 1st of each year.

Restrictions:

1. Class II:
   a) Café must remain open until 9:00 p.m.
2. Class V:
   a) License cannot be transferred to any other locations
   b) Limited to on sale service of alcoholic beverage to private groups who have rented the facility for social or business use not open to the public at large.
   c) Persons under the age of 21 may be permitted on the grounds provided the area where persons under the age of 21 are permitted is separate from the room where alcoholic beverages are opened or mixed.
   d) Temporary bars may be set up and sale of alcoholic beverages permitted anywhere on the grounds at times when persons under the age of 21 are not permitted.
   e) Liquor license must be sold with the building for which it is now licensed
   f) License can never be operated as a bar or club
   g) License can never be used to hold a concert
3. Class VI:
   a) Gross sales of alcoholic beverages may not be greater than 40 percent of total gross sales of food and alcoholic beverages. All Class Vi license holders shall file with application for license renewal a statement certifying gross food sales and liquor sales for previous calendar year. The Board of City Commissioners may, in its discretion, require certification of any statement by certified public accountant retained by the licensee. All sales of alcoholic beverages by Class Vi licensee must be separately receipted to the customer by cash register receipt and clearly identified as sales of beer or wine on all receipts.

b) The license is for on sale only and off sale is not permitted.
c) Once a license has been established at a particular location, the license may not be transferred to another location.
d) The licensee may not permit public dances or dancing of any kind.
e) Beer and wine can only be served with a meal.
f) Persons under the age of 21 may be permitted on the grounds provided the area where persons under the age of 21 are permitted is separate from the room where alcoholic beverages are opened or mixed.

**8.0605 Licenses – No Limit of Number**

1. All class types of liquor licenses as outlined in 8.0604 will be made available for application and will be unlimited to the number that can be issued at the discretion of the governing body.
2. All applications for liquor licenses, changes in licenses in inquires as to statue of current licenses shall be directed to the City Auditor for processing.
3. All other liquor laws as set forth in the N.D.C.C. are applicable, and should be conflicted be found, the state law will prevail.
4. Sections 10.0605, 10.0606, 10.0611, 10.0616 are herewith repealed.

**8.0606 License – Term 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 whole months which said license will be in effect.

**8.0607 License – Qualifications for**

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

Applicant, if an individual, must be a citizen of the United States, North Dakota and County of McLean or Burleigh and be a person of good moral character.

**8.0608 Application for Liquor License**

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

1. The name and address of the applicant; if the applicant is a co-partnership, the name and address and place of residence of each member of said co-partnership; of the applicant is a corporation, the name and address of other officers of the corporation and the manager of the licensed premises.
2. Whether the applicant is a citizen of the United States, and 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 and if such corporation is a subsidiary of any corporation, the name of the parent corporation.
3. The legal description and the address of the premises for which license is sought.
4. The date on which the applicant does not have title to said premises, the name and address of the owner of the premises together with a copy of the applicant's lease, if written, under which he holds possession of said premises.
5. Whether there are any delinquent taxes against the premises sought to be licenses.
6. Whether the applicant has ever engaged in the sale or distribution of alcoholic beverages prior to this application, and if so, the date and type of business and place where so engaged whether within or without the State of North Dakota, the date the applicant first began to operate.
7. Whether the applicant had ever had a license revoked or canceled by a municipal, state or federal authority, and if so, the date of such cancellation, the place and authority canceling the same, and the reason for such cancellation.
8. Whether the applicant has ever been convicted of the violation of any law of the United States or of any state, or of other violation of any local ordinance, with regard to the manufacture, sale, distribution or possession of alcoholic beverage, and if so, the dates, name of place, and courts, in which said convictions were had.
9. Whether the applicant has ever had a license for the sale of alcoholic beverages revoked for any violation of state laws or local ordinances, and if so, the names of the other bodies revoking such license, the dates of such revocation, and the reasons assigned therefore.
10. Whether the applicant has been convicted of any other crime than stated in subsections (8) and (9) hereof, in this state or any other state, or under any federal law, and if so, the date of such conviction, the name of the crime for which convicted, the amount and terms of the sentence passed, and the court in which convicted.

11. The name and address and the place of residence for a period of one year prior to the date of application of any person who will have charge, management, or control of the establishment for which license is sought.
12. Whether any other person than the applicant has any right, title, estate or interest in the leasehold or in the furniture, fixtures, or equipment in the premises for which license is sought, and if so, the name and address of such person together with a statement of the interest so held.
13. Whether the applicant has any interest whatsoever directly or indirectly, in any other establishment dispensing alcoholic beverage, either at wholesale or retail, within or without the State of North Dakota, and if so, the name 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, and within the boarder of the United States.
14. The occupations which the applicant has followed during the past five years.
15. The names and address of at least three business references.
16. Whether the applicant is rated by any commercial agency, and if so, the name and address of said agency.
17. The classification of license applied for.
18. If the applicant is a lodge or club, the date of organization, the number of members, the purpose of which organized, and the purpose for which profits to be derived from the sale of alcoholic beverages are to be applies; and whenever required by the governing body a list or the members belonging to such lodge or club.
19. A statement by the applicant that he consents to entry and inspection of other 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 the State of North Dakota.
20. Such other and further information as the governing body may from time to time require.

**8.0609 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.

**8.0610 License – Location of**

No license shall be issued or transferred to any person, firm or corporation to engage in the sale of beer or alcoholic beverages within the city without approval as to the location of said licensed business by the governing board. The application for approval shall be in writing and

filed with the board. At the time of hearing the board shall in its discretion determine if said location is in harmony with the public interest and welfare of the community, and shall consider among other things the following factors:

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

**8.0611 License – Granting***

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

**8.0612 License – Limit to One Applicant**

Not more than one license of each classification shall be issued or granted to any applicant; and each license shall be valid only for specific premises licensed.

**8.0613 License – Posting of**

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

**8.0614 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.

**8.0615 License Fee – Distribution of**

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

**8.0616 Hours and Time of Sale – Penalty***

See 8.0604 – II and III (Hours)

Any person who dispenses or permits the consumption of alcoholic beverages on licensed premises or permits the consumption of alcoholic beverages on licensed premises after one a.m. on Sundays, before eight a.m. on Mondays, or between the hours of one a.m. and eight a.m. on all other days of the week, or who dispenses alcoholic beverages or permits consumption of alcoholic beverages on licensed premises on Christmas Day, after one a.m. on Good Friday or Thanksgiving Day, or after six p.m. on Christmas Eve is guilty of an offense. Any offense is punishable by a fine of up to $500.00, 30 days imprisonment or both.

**8.0617 Licensee's Responsibility**

Every licensee is hereby made responsible for the conduct of his 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 an intoxicated person, nor shall any intoxicated person be permitted to remain upon the premises.

**8.0618 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, and such licensed shall be revoked upon conviction of any such violation. This section shall not apply to gambling or games of chance conducted by a licensee under the authority of a valid and subsisting license issued by the State of North Dakota.

**8.0619 Omitted**

**8.0620 Omitted**

**8.0621 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.

**8.0622 Minors in Licensed Premises**

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

**8.0623 Age Identification**

Before selling alcoholic beverages to any persons or before determining whether any person shall remain upon the licenses 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.

**8.0624 Street Sale Prohibited**

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

**8.0625 Premises, Equipment of**

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

**8.0626 Closed or Screened Areas**

No premises licensed for on-sale alcoholic beverages shall contain any side rooms, closed booths, or other screened enclosures, nor shall any screen, partition, curtain, blinds, 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.

**8.0627 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 V of the North Dakota Century Code; and each licensee hereunder shall keep on file all invoices covering purchases by him of such alcoholic beverages showing the name and license number if the wholesaler, and 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.

**8.0628 Toilet Required**

That the premises where 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, is not, at all times strictly observed.

**8.0629 Deliveries – Off Licensed Premises**

It shall be unlawful for any person, firm or corporation engaged in 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. 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.

Where any retail alcoholic beverage or beer licensee is a club or lodge, such licensee shall sell to members only,

**8.630 Termination of Revocation of License**

1) Licenses issued pursuant to this article shall be deemed cancelled and revoked 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 governing body by personal representative of the decedent, the governing body shall consent to the carrying on of the business by the personal representative.
    b) When the licensee ceases business at the location licenses, unless a new location has been approved.
    c) When the licensee be adjudged bankrupt.
    d) When the licensee has been convicted of the other violation of any provision of this article, or of the laws of the State of North Dakota pertaining to alcoholic beverages, or of a felony under the laws of the United States, the State of North Dakota, or of any other state of the United States.
    e) When the licensee ceases to possess the qualifications required of an applicant for a license as set out in this article.
    f) When the license or permit of other licenses from the United States Government or the state of North Dakota to sell alcoholic beverages at the location licensed as been terminated or been revoked.
    g) When the licensee ceases to be legal bona fide resident and citizen of the State of North Dakota, or cease to be a legal bona fide resident of the County of McLean or Burleigh.

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 appropriated, upon the following grounds:
   a) When the licensee has been convicted of violating any of the provisions of this article.
   b) When the business of the licensee at the location licensed shall be conducted in violation of health or sanitary regulations or other ordinances of the city.
   c) When the licensee, if individual, or one of the partners, if the licensee be a partnership, or one of the officers or the manager if the licensee be a corporation, be convicted in the municipal court of other city of drunkenness or disorderly conduct, or if any appeal be taken from such conviction then when such conviction be sustained by the higher court or courts.
3) Such cases as are hereinbefore detailed shall be deemed to be exclusive and such license may also be canceled and revoked or suspended at any time by the 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 other State of North Dakota.
4) When any license is terminated or revoked for cause, or the licensee voluntarily ceases his business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him.

**8.0631 Penalties**

Any person, firm, corporation or association violating any of the provisions of this article shall upon conviction thereof, be subject to a fine of not to exceed Five Hundred and No/100 Dollars ($500.00), or to imprisonment of not to exceed thirty (30) days; or in the discretion of other court to both such fine and imprisonment; and in addition to both such fine and imprisonment all power, right, and privileges given by any license granted under the terms of this article may be terminated or revoked in accordance with section 8.0629 of this article.
(* See Appendix)

**Article 7: Shows, Carnivals and Circuses**

**8.0701 License Required**

No person, firm, association or corporation shall exhibit or cause to be exhibited or assist in exhibiting any natural or article 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.

**8.0702 Fee For**

The fees to secure license to conduct the exhibitions mentioned in the foregoing section shall be as follows:

Any carnival, per day……. $-0-
Any circus, per day……..……. $-0-

In addition to the above fee any carnival or circus granted a license shall deposit with the City Auditor cash bonds in the amount of _____ guaranteeing that premises upon which such carnival or circus is located shall be cleaned after the showing of such carnival or circus to the satisfaction of the City Engineer and upon certification of the City Engineer to the City Auditor or if the city has no City Engineer upon determination of the City Auditor that the same has been done said cash deposit shall be returned to licensee. Provided, further, that in addition to such fees, an additional fee in the amount from $_____ to $_____ be fixed by the governing body shall be paid at the time of obtaining license to provide for fire and police protection and additional policing in connection with the showing of such carnival or circus.

**Article 8: Validity**

**8.0801 License Required**

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, corporation, or circumstances other than those as to which it is held to be invalid, 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 9: Penalty

### 8.0901 Penalty

Any person, firm, corporation, or association violating any of the terms, article, or provisions of this chapter, for which a specific penalty is not prescribed, shall upon conviction thereof, be punished by a fine not to exceed Five Hundred and No/100 Dollars ($500.00), or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment in the discretion of the court. The court shall have the power to suspend such sentence and to revoke the suspension thereof. The court may, in addition thereto, revoke the permit of such violator, or terminate or revoke all power, 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 thereof.

**Cabaret License**

AN ORDINANCE TO AMEND AND ADD ARTICLE 10.0633 TO CHAPTER 10 RELATING TO A CABARET LICENSE AND LIMITATIONS ON ENTERTAINMENT IN LICENSED PREMISES AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF:

Be it ordained by the Board of City Commissioners of the City of Wilton, North Dakota:

Article 10.0633 CABARET LICENSE

1. Definitions
   a) Entertainment – shall be defined for purposes of this Ordinance to mean all forms and types of performing or entertaining for patrons on licensed premises without regards as to whether such entertainment is provided by means of live performance or manually operated, electronic system designed for stereophonic playback or prerecorded signals: provided, however, that entertainment shall not be deemed to include the use of any televisions, radio or coin operated music machine.
   b) Live performance – shall be defined for the purpose of this Ordinance to mean any person who for consideration, monetary or otherwise, performs in person on a licensed premise as a singer, musician, dancer, comedian, model, or any other type of entertainer.
2. No license under this Chapter shall permit entertainment for more than one day a week any given week without first having obtained a cabaret license as hereinafter provided.
3. The license fee set cabaret license shall be $1.00 per year.
4. The license fee set forth in subsection 3 of this Section shall be for a period of one year from July 1 to June 30 and shall be payable in advance at the time of the issuance of the license and thereafter, on or before June 10 of each subsequent year for renewal of said license.
5. The application for cabaret license shall be made by the licensee on forms provided by the City Auditor's Office of the City of Wilton. The granting of a cabaret license shall be subject to the approval of the commission and it may be suspended or revoked in the conformance with procedures established under Article 10.0631.
6. No live performances are permitted on a licenses premise which contains any form of dancing. Such prohibition on dancing does not include the incidental movement or choreography of singers or musician which are made in connection with their singing or playing of a musical instrument. This restriction applies to all licensed premises whether or not they have a cabaret license.

7. No live performances are permitted on a licensed premise which involve the removal of clothing garments or any other costume. Such prohibition does not include the removal of headwear or footwear; or the incidental removal for purposes of his section shall mean the removal of a garment or article of clothing which is not a part of the act or performance. This restriction applies to all licensed premises whether or not they have a license.
8. No entertainment on a licensed premise shall contain:
   a) The performances of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
   b) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;
   c) The actual or simulated displaying of the pubic hair, anus, vulva, or genitals; or the nipples of a female.

This restriction applies to all licensed premises whether or not they have a cabaret license.

9. A licensee shall have the duty and responsibility to make available for inspection by a member of the Mclean County Sheriff's Department an identification card, such as a driver's license, containing a photograph and the age of all entertainers or performers on the licensed premise. The licensee shall not permit a person to make a live performance on the licensed premise id the licensee is nor able to obtain the required identification from the performer.
10. If a section, subsection, sentence or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance.
11. Penalty. Any person found guilty of violating any of the provisions of this ordinance shall be punished by a fine of not more than $500.00 or by imprisonment for not to exceed 30 days or both, such fine and imprisonment in the discretion of the court.
12. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication

**Adult Entertainment**

AN ORDINACE TO ENACT A ZOINING CLASSIFICATION PETAINING TO REGULATION AND DEFINING ADULT ENTERTAINEMNT CENTER.

Be it ordained by the board of City Commissioners of the City of Wilton, North Dakota.

**Section 1.**
Amendment. The Zoning Ordinance of the City of Wilton, is hereby amended by the addition thereto of the following definitions

Adult Bookstore
An enclosed building having as a substantial or significant portion of its stock in trade, books, magazines, or other periodical which are distinguished or characterized by the emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

Adult Cinema
An enclosed building used on a regular basis for presenting pictorial materials or other visual images by the way of direct or indirect projection, which materials are distinguished or characterized by the emphasis on the depiction of specified sexual activities or specified anatomical areas for observation by patrons therein in return for payment of a consideration, irrespective of the number of patrons who may be able to view the presentation at one time.

Adult Entertainment Center. An adult bookstore or adult cinema or both
Specified Anatomical Ares:

1. Less than completely and opaquely covered
    a) Human genitals, pubic regions;
    b) Buttocks;
    c) Female breast below a point immediately above the top of the areola; and
2. Human male genitals in the discernibly turgid state, even if completely or opaquely covered

Specified Sexual Activates:

1. Human genitals n a state of sexual simulations or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling of human genitals pubic region, buttocks or female breasts.

**Section 3.4**
The Zoning Ordinance of the City of Wilton, North Dakota, as emended is hereby amended by adding Item (13) Adult Entertainment Center.

(13) Adult Entertainment Center:
Notwithstanding anything in this zoning ordinance to the contrary, an adult entertainment center shall be permitted only in an "industrial" district and in no other district, providing the center meet the following conditions:

1. The center is located no closer than 1,500 feet from any preexisting church, school, recreational or residentially zoned property and/or property used for residential purposes;
2. The center excludes from its premises those persons less than 18 years of age;
3. The center displays no signs visible from the exterior of the center except signs identifying the center as an adult bookstore or adult cinema or both;
4. No materials depicting specified sexual activities or specified anatomical areas shall be visible from the exterior of the centers;
5. The manager and the owners of the center are registered with the Chief of Police and have provided him with such information as he reasonably may require with respect to their identities, including fingerprints, and prior criminal records, if any;
6. The business premises of the center which are generally open to its patrons are open equally at the same time without charge to members of the city of police force who may which to enter thereon provided the entry is in the course of discharge of the policeman's duties;
7. The business premises of the center which are general open to its patrons shall be closed to its patrons from 1:00 a.m. to 8:00 a.m. daily except on Sundays 12:01 a.m. to 8:00 a.m. the following day;
8. The center is licensed by the City.

**Section 3**
Taking Effect. This ordinance shall be in full force and effect from and after its final passage and adoption.

**Section 4**
Severability. The provision in the ordinance are severable and if any of the provisions, sentence, clause or paragraph shall be held unconstitutional, contrary to statue, exceeding the authority of the city or otherwise illegal or inoperative by any court of competent jurisdiction, the

decision of such court shall not affect or impair any of the remaining provisions, unled the court should conclude that the partial invalidation would frustrate the intent of this ordinance.

**Licensing Adult Entertainment and Mechanical Amusement Devices License**

AN ORDINANCE OF THE CITY OF WILTON, NORTH DAKOTA PERTAINING TO LICENSING ADULT ENTERTAINMENT CENTERS AND ASSOCIATED MECHANICAL AMUSEMENT DEVISES

Be it ordained by the Board of City Commissioners of the City of Wilton, North Dakota:

**Section 1. – Legislative Intent and Purpose**
The purpose of this ordinance is to recognize and provide for the fact that the operations of mechanical amusement devises which depict or display specified sexual activities or specified anatomical areas results in increased enforcement problems for the city and additional expense to the city that justifies a higher license fee for these devises than for other mechanical amusement devices. This follows because it is not immediately possible to distinguish between constitutionally protected non-obscene depicting or portrayals of explicit sexual conduct, on one hand, from non-constitutionally protected obscene portrayals of sexual conduct on the other hand. This necessitates greater police vigilance to assure that the lawful business o displaying non-obscene portrayals or depictions of sexual conduct in not use inadvertently or by design as the means of unlawfully displaying or depicting obscenity. In order to recoup some of the costs thus imposed on the city it is appropriate that there be imposed on the persons who profit from such devices some of the costs of insuring that the devices are used only lawfully.

**Section 2. – The Fees Shall Include the Following**
Adult Entertainment Center as defined in Ordinance No. 2-82 of the City of Wilton, North Dakota, as follows:

1. Each entertainment center - $6,000.00
2. Each mechanical amusement device used on a regular basis to depict or display specified anatomical areas or specified sexual activities - $1,500.00
    a) The terms specified anatomical areas and specified sexual activities as herein are defined in Ordinance No. 2-82 of the City of Wilton, North Dakota, as amended;
    b) The owner of the mechanical amusement device shall furnish a complete list of all devices owned or operated subject to licensing with an indication thereon of the location of each machine and a list of all films used and date of any film replacement during the licensing period;
    c) A “mechanical amusement device” is a machine which, upon insertion of a coin or the payment of consideration, operates or may be operated for use as a game, contest, or amusement of aby description, one which depicts, displays, or projects directly or indirectly, pictures, photographs or other visual images;
    d) The fees provided for herein shall be payable on July 1 of each year. No fees shall be pro-rated.

**Section 3. – Taking Effect**
This ordinance shall be in full force and effect from and after its final passage an adoption.

# 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 the North Dakota Century Code in Title 39, and NDCC Section 39-01-01 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

**Article 2: Traffic Administration**

**9.0201 Duty of Police Department**

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

**9.0202 Records of Traffic Violations**

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

**9.0203 Police Department to Investigate Accidents**

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

Every law enforcement officer, who in the regular course of duty investigates a motor vehicle accident required to be reported as provided in 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 Commissioner of the North Dakota State Highway Department.

**Article 3: Enforcement and Obedience to Traffic Regulations**

**9.0301 Authority of Police and Fire Department Officials**

1. It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws of this City and all of the state vehicle laws.
2. Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.
3. Officers of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

**9.0302 Obedience to Traffic Ordinances**

It shall be unlawful for any person to do any act forbidden or fail to perform any act required by the provisions of this Chapter, and upon conviction of a violation of any of the provisions of this Chapter every person, firm or corporation shall be punished as provided in 20-11 of this Chapter.

**9.0303 Obedience to Police Officers or Firemen**

No person shall willfully refuse to comply with any lawful order or direction of any police officer or fireman 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 push cart upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this ordinance and by the rules of the road portion of the state vehicle code, except those provisions which by their very nature can have no application.
2. Every person riding a bicycle or an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this ordinance, except those provisions of this ordinance which by their very nature can have no application.

**9.0305 Use of Coasters, Roller Skates and Similar Devices Restricted**

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

**9.0306 Public Employees to Obey Traffic Regulations**

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

**9.0307 Emergency Vehicles**

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

Class A Authorized Emergency Vehicles (NDCC 39-10-03.)

1. The driver of a class A authorized emergency vehicle may:
    a. Park or stand, irrespective of the provisions of this chapter.
    b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
    c. Exceed the speed limit so long as the driver does not endanger life or property.
    d. Disregard regulations governing direction of movement or turning in specified directions.
2. The exceptions herein granted to a class A authorized emergency vehicle apply only:
    a. When the authorized emergency vehicle is in pursuit of or apprehension of a violator or a suspected violator requiring the use of these exemptions.
    b. When the class A authorized emergency vehicle is being operated in response to a reported emergency involving a possible personal injury, death, or damage to property, and when giving adequate warning by use of a flashing red or combination red and white lights that are visible under normal atmospheric conditions for at least five hundred feet [152.4 meters] and if appropriate, giving audible signal by siren or air horn. A firetruck, ambulance, or 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 a 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 firetruck, ambulance, or 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.
3. An emergency vehicle may not display or permit to be displayed any red lamp except when operated on official business.
4. Any law enforcement officer as provided in paragraph 2 of subdivision a of subsection 2 of section 39-01-01 having stopped another vehicle along a highway, and while still involved in that incident, or any other related 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.

**Class B authorized emergency vehicles. (NDCC 39-10-03.1.)**

1. The driver of a class B authorized emergency vehicle may:
   a. Park or stand, irrespective of the provisions of this chapter.
   b. Exceed the speed limit so long as the driver 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.
2. The exceptions herein granted to a class B authorized emergency vehicle apply only when the authorized emergency vehicle is displaying an amber light visible under normal atmospheric conditions for a distance of five hundred feet [152.4 meters] in any direction, and:
   a. When it is necessary for the authorized emergency vehicle to use these exemptions for the immediate protection of life or property;
   b. When an authorized emergency vehicle is stopped on a highway for the purpose of performing a duty as required of the driver; or
   c. When traveling at a speed slower than the normal flow of traffic.

**Class C authorized emergency vehicles (NDCC 39-10-03.2.)**

All class B specifications apply to class C authorized emergency vehicles except that a blue flashing light must be displayed in place of an amber light as provided in section 39-10-03.1.

**9.0308 Operation of Vehicles on Approach of Authorized Emergency Vehicles**

The provisions of NDCC Section 39-10-26 and all subsequent amendments shall be and are hereby incorporated in this ordinance.

1. Upon the immediate approach of an authorized emergency vehicle displaying a visible flashing, revolving, or rotating blue, white, or red light, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb 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.
2. 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.
3. 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.
4. 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.

5. 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.
6. 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.

**9.0309 Written Report of Accident**

The provisions of NDCC Section 39-08-09, 39-08-10, 39-08-11, 39-07-12, 39-07-13 and all subsequent amendments shall be and are hereby incorporated in this ordinance.

NDCC 39-08-09. Immediate notice of accident - Penalty.

1. The driver of a vehicle involved in an accident resulting in injury to or death of any person, or property damage to an apparent extent of at least one thousand dollars, shall immediately give notice of the accident to the local police department if the accident occurs within a municipality, otherwise to the office of the county sheriff or the state highway patrol. Any person who violates this section must be assessed a fine of fifty dollars. 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 days of the accident the driver shall supply that information to the driver's license division in the form the division requires.
2. The director may suspend the license or permit to drive and any nonresident operating privileges of any person failing to comply with the duties as provided in sections 39-08-06 through 39-08-09 until those duties have been fulfilled, and the director may extend the suspension not to exceed thirty days.
3. 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, regardless of the amount of damage to the driver's vehicle.

39-08-10. **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 section 39-08-09 either at the time and at the scene of the accident or thereafter by interviewing the participants, or witnesses, shall make and promptly forward to the director a report of the accident in a format prescribed by the director.

39-08-11. **When driver unable to report.**

1. An accident notice is not required from any person who is physically incapable of making the report during the period of such incapacity.
2. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident and there was 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.
3. Whenever the driver is physically incapable of giving notice of an accident and such driver is not the owner of the vehicle, then the owner of the vehicle involved shall within five days after learning of the accident give such notice and insurance information not given by the driver.

NDCC 39-07-12. **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 39-08-09 or of being struck by any bullet shall report or cause a report to be made to a police officer within twenty-four hours after such motor vehicle is 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 has 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.

NDCC 39-07-13. **Wrecker and towing services to report.**

The person in charge or 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 shows evidence of having been involved in a reportable accident as provided in section 39-08-09 or of being struck by any bullet shall report or cause a report to be made to a police officer within twenty-four hours after such motor vehicle is transported. The report must give the registration number, and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, along with the location such vehicle was transported to, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff, or highway patrolman, bearing information to show that the accident in which the vehicle was involved has been investigated. If the vehicle does bear such a sticker, the towing or wrecker service need not make the report this section requires.

**Article 4: Traffic Control Devices**

**9.0401 Authority to Install**

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

**9.0402 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 NDCC Section 39-13-06. All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the City. All traffic-control devices so erected and not inconsistent with the provisions of state law or this article shall be official traffic-control devices.

**9.0403 Obedience to Traffic-Control Devices**

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

1. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.
2. No provision of this chapter for which traffic-control devices are required may 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 is effective even though no devices are erected or in place.
3. Whenever official traffic-control devices are placed in positions approximately conforming to the requirements of this title, such devices must be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary is established by competent evidence.
4. Any official traffic-control device placed pursuant to the provisions of this title and purporting to conform to the lawful requirements pertaining to such devices must be

presumed to comply with the requirements of this title, unless the contrary is established by competent evidence.

**9.0404 Obedience to Traffic-Control Devices**

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

1. No person may place, maintain, or display upon or in view of any highway, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device or any railroad sign or signal.
2. No person may place or maintain nor may any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising
3. This section may not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs
4. Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice when located on highway right of way.
5. No person may place, maintain, or display upon or within the right of way of any highway any sign, post, pole, mailbox, or signal which has a red lamp or red reflector visible to traffic. The provisions of this subsection do not apply to official traffic devices, lamps, or reflectors on motor vehicles or bicycles, or railroad signals or signs.
6. This section does not prohibit the use of portable battery-powered warning devices emitting a flashing red light placed upon a highway to alert oncoming traffic to a disabled or stopped motor vehicle.

**9.0405 Interference with Official Traffic Control Device or Sign**

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

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

**9.0406 Designation of Walks, Lanes, etc.**

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

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

**Article 5: Speed Regulations and Care Required**

**9.0501 Basic Rules- Penalty for Violation**

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

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

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

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

**9.0502 Speed Limitations**

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

1. Subject to the provisions of section 39-09-01 and except in those instances when a lower speed is specified in this chapter, it presumably is lawful for the driver of a vehicle to drive the same at a speed not exceeding:
    a. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24 meters] 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 feet [60.96 meters] of the driver's approach to such crossing, the driver does not have a clear and uninterrupted view of such railway

crossing and of any traffic on such railway for a distance of four hundred feet [121.92 meters] in each direction from such crossing.

b. Twenty miles [32.19 kilometers] an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours, unless a lower speed is designated or posted by local authorities.
c. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24 meters] 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 feet [15.24 meters] 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 feet [60.96 meters] from such intersection.
d. Twenty miles [32.19 kilometers] an hour when the driver's view of the highway ahead is obstructed within a distance of one hundred feet [30.48 meters].
e. Twenty-five miles [40.23 kilometers] an hour on any highway in a business district or in a residence district or in a public park, unless a different speed is designated and posted by local authorities.
f. Fifty-five miles [88.51 kilometers] an hour on gravel, dirt, or loose surface highways, and on paved two-lane county and township highways if there is no speed limit posted, unless otherwise permitted, restricted, or required by conditions.
g. Sixty-five miles [104.61 kilometers] an hour on paved two-lane highways if posted for that speed, unless otherwise permitted, restricted, or required by conditions.
h. Seventy miles [112.65 kilometers] an hour on paved and divided multilane highways, unless otherwise permitted, restricted, or required by conditions.
i. Seventy-five miles [120.70 kilometers] an hour on access-controlled, paved and divided, multilane interstate highways, unless otherwise permitted, restricted, or required by conditions.

2. The director may designate and post special areas of state highways where lower speed limits apply. Differing limits may be established for different times of the day within highway construction zones which are effective when posted upon appropriate fixed or variable speed limit signs.
3. 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.

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

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

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

1. Whenever local authorities in their respective jurisdictions, on the basis of an engineering and traffic investigation, determine that the maximum speed permitted under this title is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which:
   a. Decreases the limit at intersections;
   b. Increases the limit within an urban district but not to more than fifty-five miles [88.51 kilometers] per hour; or
   c. Decreases the limit outside an urban district.
2. Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under this chapter for an urban district.
3. Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.
4. Any alteration of maximum limits on state highways or extensions thereof in a municipality by local authorities may not be effective until such alteration has been approved by the director.
5. Not more than six such alterations as hereinabove authorized may be made per mile [1.61 kilometers] along a street or highway, except in the case of reduced limits at intersections, and the difference between adjacent limits may not be more than ten miles [16.09 kilometers] per hour.

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

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

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

**9.0505 Interference with Official Traffic Control Device or Sign**

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

1. An individual may not drive a motor vehicle at a reduced speed so as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.
2. If the director and the superintendent of the highway patrol, acting jointly, or a local authority within the authority's jurisdiction, 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 local authority may determine and declare a minimum speed limit below which an individual may not drive a vehicle except when necessary for safe operation or in compliance with law, and that limit is effective when posted upon appropriate fixed or variable signs.

**9.0506 Regulations of Speed by Traffic Signals**

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

**9.0507 Exhibition Driving and Drag Racing - Definitions – Penalty**

The provision of North Dakota Century Code Section 39-08-03.1and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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

person who violates this section by engaging in an act defined by subdivision a or c of subsection 2 must be assessed a fee of one hundred dollars.

2. As used in this section:
   a. "Drag race" means the operation of two or more vehicles from a point side by side by accelerating rapidly in a competitive attempt to cause one vehicle to outdistance the other; or the operation of one or more vehicles over a common selected course from the same point to the same point for the purpose of comparing the relative speed or powers of acceleration of such vehicle or vehicles within a certain distance or time limit.
   b. "Exhibition driving" means driving a vehicle in a manner which disturbs the peace by creating or causing unnecessary engine noise, tire squeal, skid, or slide upon acceleration or braking; or driving and executing or attempting one or a series of unnecessarily abrupt turns.
   c. "Race" means the use of one or more vehicles in an attempt to outgain, outdistance, or to arrive at a given distance ahead of another vehicle or vehicles; or the use of one or more vehicles to willfully prevent another vehicle from passing the racing vehicle or vehicles, or to test the physical stamina or endurance of the persons driving the vehicles over a long-distance driving route.
3. Nothing in this section shall be construed as prohibiting drag racing, exhibition driving, or similar events when carried out in an organized manner on a track or other privately owned area specifically set aside and used solely for such purposes by drivers of motor vehicles, including snowmobiles.

**9.0508 Radar Evidence in Speed Violations***

The provision of North Dakota Century Code Section 39-03-15 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
The speed of any motor vehicle may be checked by the use of radio microwaves or other electrical device. The results of such checks shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceedings where the speed of the motor vehicle is at issue. The driver of any such motor vehicle may be arrested without a warrant under this section, provided the arresting officer is in uniform or displays the officer's badge of authority; provided that such officer has observed the record of the speed of such motor vehicle by the radio microwaves or other electrical device, or has received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves or other electrical device. Nothing herein shall affect the powers of cities or towns to adopt and use such device to measure speed.

**9.0509 Care Required in Operating Vehicle**

The provision of North Dakota Century Code Section 39-09-01.1 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
Any person driving a vehicle upon a highway shall drive the vehicle in a careful and prudent manner, having due regard to the traffic, surface, and width of the highway and other conditions then existing, and shall give such warnings as are reasonably necessary for safe operation under the circumstances. No person may drive any vehicle upon a highway in a manner to endanger the life, limb, or property of any person.

(* See Appendix)

**Article 6: Turning Movements**

**9.0601 Required Position and Method of Turning at Intersection**

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

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

1. Right turns. Both the approach for a right turn and a right turn must be made as close as practicable to the right-hand curb or edge of the roadway.
2. Left turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable, the left turn must be made to the left of the center of the intersection and so as to leave the intersection or other location 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 director and local authorities in their respective jurisdictions 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 it other than as directed and required by such devices.

**9.0602 Vehicle Turning Left at Intersection**

The provisions of North Dakota Century Code Section 39-10-23 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

**9.0603 Limitations on Turning Around**

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

1. The driver of any vehicle may not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.

2. No vehicle 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 feet [152.4 meters].

**9.0604 Turning Movements and Required Signals**

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

1. No person may turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety without giving an appropriate signal in the manner hereinafter provided.
2. A signal of intention to turn or move right or left when required must be given continuously during not less than the last one hundred feet [30.48 meters] traveled by the vehicle before turning.
3. No person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.
4. The signals required on vehicles by subsection 2 of section 39-10-39 may not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

**9.0605 Signals by Hand and Arm or Signal Lamps**

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

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

**9.0606 Methods of Giving Hand and Arm Signals**

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

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

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

**Article 7: Special Stops**

**9.0701 Authority to Designate Through Streets**

The provisions of North Dakota Century Code Section 39-07-03 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
The director with reference to state highways, and local authorities, with reference to highways under their jurisdiction, may, by proclamation, designate as through highways, any highway, street, or part thereof, and erect stop signs or yield signs at specified entrances thereto, or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to such intersection.

**9.0702 Through Streets Designated**

The following streets and parts of streets are hereby declared to be through streets for the purpose of this chapter:
Burleigh Road
Dakota Avenue
7th Street

**9.0703 Signs**

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

**9.0704 Stop Signs and Yield Signs**

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

1. Preferential right of way may be indicated by stop signs or yield signs as authorized in section 39-07-03.
2. Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.
3. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall

stop at a clearly marked stop line, or, if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting 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 a 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 is deemed prima facie evidence of the driver's Preferential right of way at an intersection may be indicated by stop signs or yield signs as authorized in section 39-07-03.

4. Every stop sign and every yield sign must be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as near as practicable to the nearest line of the intersecting roadway.
5. Except when directed to proceed by a police officer or traffic control signal, 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 intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.
6. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the 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 provision of North Dakota Century Code Section 39-10-45 and 39-10-68 all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
The driver of a vehicle emerging from an alley, driveway, private road, or building within a business or residence district shall stop such vehicle immediately prior to driving onto a sidewalk or onto 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 where the driver has a view of approaching traffic thereon.

**9.0706 Stop When Traffic Obstructed**

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

**9.0707 Obedience to Signal Indicating Approach of Train**

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

1. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters] from the nearest rail of such railroad, and may not proceed until the driver can do so safely. The foregoing requirements apply when:
    a. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
    b. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
    c. A railroad train approaching within approximately one thousand three hundred twenty feet [402.34 meters] of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or
    d. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
2. No person may drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. No person may drive any vehicle past any human flagman at a railroad crossing until the flagman signals that the way is clear to proceed.

**Article 8: Operators**

**9.0801 Operators - Who Prohibited**

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

**Article 9: Miscellaneous Driving Rules**

**9.0901 When Traffic Obstructed**

No driver shall 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. (North Dakota Century Code Section 39-10-68)

**9.0902 Driving Through Funeral or Other Procession**

No driver of a vehicle (or motorman of a streetcar) shall 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.

**9.0903 Drivers in a Procession**

Each driver in a funeral or other procession shall drive as near to the right hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe.

**9.0904 Funeral Processions to be Identified**

A funeral composed of a procession of vehicles shall be identified as such by headlights burning in daylight hours on all vehicles in the procession, or by such other methods as may be determined and designated by the Chief of Police.

**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 chief of police and such other regulations as are set forth herein which may apply.

**9.0906 Drive on Right Side of Roadway – Exceptions***

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

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

**9.0907 Obedience to Signal Indicating Approach of Train**

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

**9.0908 Overtaking a Vehicle on the Left**

The provision of North Dakota Century Code Section 39-10-11 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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

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

**9.0909 When Overtaking on the Right is Permitted**

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

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

**9.0910 Limitations on Overtaking on the Left**

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

No vehicle 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 [60.96 meters] of any approaching vehicle.

**9.0911 Further Limitations on Driving on Left of Center of Roadway***

The provision of North Dakota Century Code Section 39-10-14 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. No vehicle may be driven to the left side of the roadway under any of 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 feet [30.48 meters] of or traversing any intersection or railroad grade crossing.
   c. When the view is obstructed upon approaching within one hundred feet [30.48 meters] of any bridge, viaduct, or tunnel.
2. The foregoing limitations do not apply upon a one-way roadway, nor under the conditions described in section 39-10-08, nor to the driver of a vehicle turning left into or from an alley, private road, or driveway.

**9.0912 No Passing Zones**

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

1. The director and local authorities are hereby authorized to determine those portions of any highway under their respective jurisdiction where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.
2. Where signs or markings are in place to define a no-passing zone as set forth in subsection 1, no driver may at any time drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.
3. This section does not apply under the conditions described in section 39-10-08 nor to the driver of a vehicle turning left into or from an alley, private road, or driveway.

**9.0913 Driving on Roadways Laned for Traffic**

The provision of North Dakota Century Code Section 39-10-17 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith apply:

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

**9.0914 Following Too Closely**

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

1. The driver of a motor vehicle may not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.
2. The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this does not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.

3. Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles must be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision does not apply to funeral processions.

**9.0915 Driving on Divided Highways**

The provision of North Dakota Century Code Section 39-10-19 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed 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 or at a crossover or intersection as established by public authority, unless such crossing is specifically prohibited and such prohibition is indicated by appropriate traffic-control devices.

**9.0916 Restricted Access**

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

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

**9.0917 Restrictions on Use of Controlled- Access Roadway**

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

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

The director or the local authority adopting any such prohibition shall erect and maintain official traffic-control devices on the controlled-access roadway on which such prohibitions are applicable and when in place no person may disobey the restrictions stated on such devices.

**9.0918 Vehicles Entering Roadway**

The provision of North Dakota Century Code Section 39-10-25 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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

**9.0919 Vehicle Approaching or Entering Intersection**

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

1. If a vehicle approaches or enters an intersection that does not have an official traffic-control device and another vehicle approaches or enters from a different highway at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right. If the intersection is T-shaped and does not have an official traffic-control device, the driver of the vehicle on the terminating street or highway shall yield to the vehicle on the continuing street or highway.
2. If a vehicle approaches an intersection that has traffic-control signals that usually exhibit different colored lights and the signals are not lit, the driver of the vehicle shall stop and yield as required under subsection 2 of section 39-10-24.
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**

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

1. The driver of a vehicle meeting or overtaking from either direction 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 section 39-21-18, and the driver may not proceed until the school bus resumes motion, the driver is signaled by the school bus driver to proceed, or the flashing red lights and the stop sign on the control arm are no longer actuated.

2. Every school bus must bear upon the front and rear thereof plainly visible signs containing the word "SCHOOLBUS" in letters not less than eight inches [20.32 centimeters] in height. When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or for a school-sanctioned activity, all markings thereon indicating "SCHOOLBUS" must be covered or concealed.
3. The operator of a school bus equipped with amber caution lights may activate those lights at a distance of not less than three hundred feet [91.44 meters] nor more than five hundred feet [152.4 meters] from the point where schoolchildren are to be received or discharged from the bus.
4. Every school bus must be equipped with a stop sign on a control arm and red visual signals meeting the requirements of section 39-21-18, which may only be actuated by the driver of the school bus whenever the vehicle is stopped on the highway to receive or discharge schoolchildren.
5. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.
6. Every school bus must bear on the rear of the bus a plainly visible sign containing the words "THIS SCHOOLBUS STOPS AT ALL RAILROAD CROSSINGS".

**9.0921 Unattended Motor Vehicles**

The provision of North Dakota Century Code Section 39-10-51 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
No person driving or in charge of a motor vehicle may permit it to stand unattended without first stopping the engine, effectively setting the brake thereon, and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

**9.0922 Limitations on Backing**

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

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

**9.0923 Obstruction to Driver's View or Driving Mechanism**

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

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

**9.0924 Opening and Closing Vehicle Doors**

The provision of North Dakota Century Code Section 39-10-54.1 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
No person may open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic, nor may any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

**9.0925 Coasting Prohibited**

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

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

**9.0926 Following Fire Apparatus Prohibited**

The provision of North Dakota Century Code Section 39-10-57 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
The driver of a vehicle other than one on official business may not follow closer than five hundred feet [152.4 meters] 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 feet [60.96 meters] of any emergency vehicle stopped in answer to a 911 emergency.

**9.0927 Crossing Fire Hose**

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

No vehicle 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 Highway**

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

1. 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.
2. 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.
3. An individual removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle

**9.0929 Driving Through Safety Zone Prohibited**

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

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

**9.0930 Moving Heavy Equipment at Railroad Grade Crossing**

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

1. No person may operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten or less miles [16.09 or less kilometers] per hour or a vertical body or load clearance of less than one-half inch per

foot [12.7 millimeters] of the distance between any two adjacent axles or in any event of less than nine inches [22.86 centimeters], measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.

2. Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet [4.57 meters] nor more than fifty feet [15.24 meters] 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 may not proceed until the crossing can be made safely.
3. No such crossing may be made when warning is given by automatic signal or crossing gates or a 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 – Alteration of Odometers or other Mileage Recorders, Hour Meters on Tachometers or other Hour Recorders - Penalty**

The provision of North Dakota Century Code Section s39-21-51 and all subsequent amendments shall be and are herby incorporated by reference in this ordinance.

Any person altering a motor vehicle odometer or other mileage recorded. Hour meter on tachometer or other hour recorded for the purpose of deceiving another, shall be guilty of an infraction.

**9.0932 Open Bottle Law- Penalty**

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

1. A person may not drink or consume alcoholic beverages, as defined in section 5-01-01, 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 such alcoholic beverages which has

been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle is kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment must be deemed to be within the area occupied by the driver and passengers. This subsection does not prohibit the consumption or possession of alcoholic beverages in a house car 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 this subsection must be assessed a fee of fifty dollars; however, the licensing authority may not record the violation against the person's driving record unless the person was the driver of the motor vehicle at the time that the violation occurred.

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

**9.0933 Permitting Unauthorized Minor to Drive**

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

**9.0934 Permitting Unauthorized Person to Drive**

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

(* See Appendix)

**Article 10: Pedestrians' Rights and Duties**

**9.1001 Pedestrian Obedience to Traffic Control Devices and Traffic Regulations**

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

1. A pedestrian shall obey the instructions of any official traffic-control device specially applicable to the pedestrian, unless otherwise directed by a police officer.
2. Pedestrians are subject to traffic-control and pedestrian-control signals as provided for in sections 39-10-05 and 39-10-06.

**9.1002 Pedestrians' Right-of-way in Crosswalks**

The provision of North Dakota Century Code Section 39-10-28 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
2. No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.
3. Subsection 1 does not apply under the conditions stated in subsection 2 of section 39-10-29.
4. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the highway, the driver of any other vehicle approaching from the rear may not overtake and pass such stopped vehicle

**9.1003 Crossing at other than Crosswalks**

The provision of North Dakota Century Code Section 39-10-29 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

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

**9.1004 Drivers to Exercise Due Care**

The provision of North Dakota Century Code Section 39-10-30 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. Notwithstanding other provisions of this chapter or the provisions of any local ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused, incapacitated, or intoxicated person.

**9.1005 Pedestrians to Use Right Half of Crosswalks**

The provision of North Dakota Century Code Section 39-10-32 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

**9.1006 Pedestrian on roadway**

The provision of North Dakota Century Code Section 39-10-33 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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

**9.1007 Pedestrian's right of way on sidewalk**

The provision of North Dakota Century Code Section 39-10-33.1 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
The driver of a vehicle shall yield the right of way to any pedestrian on a sidewalk.

**9.1008 Pedestrian to yield to authorized emergency vehicles**

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

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

The provision of North Dakota Century Code Section 39-10-33.3 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
The driver of a vehicle shall yield the right of way to 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 Pedestrian under influence of alcohol or drugs**

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

**9.1011 Bridge and railroad signals**

The provision of North Dakota Century Code Section 39-10-33.5 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
No pedestrian 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 Pedestrian soliciting ride or business**

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

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

The provision of North Dakota Century Code Section 39-10.2-02 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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 title, except as to special regulations in this chapter and except as to those provisions of this title 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 Motorcycle**

The provision of North Dakota Century Code Section 39-10.2-02 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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

**9.1103 Operating Motorcycles on Roadways Laned for Traffic**

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

1. All motorcycles are entitled to full use of a lane and no motor vehicle may be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection does not apply to the operation of motorcycles two abreast in a single lane as authorized in subsection 4.

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

**9.1104 Clinging to Other Vehicle**

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

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

**9.1105 Footrests**

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

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

**9.1106 Equipment for Motorcycle Riders**

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

1. No person under the age of eighteen years 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.
2. This section does not apply to persons riding within an enclosed cab or on a golf cart.
3. No person may operate a motorcycle if a person under the age of eighteen years is a passenger upon that motorcycle and is not wearing a safety helmet as provided in subsection 1.

**9.1107 Other Applicable Law**

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

All of the provisions of chapter 39-06.1 pertaining to the disposition of traffic offenses apply to this chapter.

**Article 12: Regulations for Bicycles**

**9.1201 Effect of Regulations**

1. It is a violation of this ordinance for any personto 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 ordinance.
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 Section 39-10.1-0**l)**

**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 ordinance, except as to special regulations in this article and except as lo those provisions of this ordinance which by their nature can have no application. (Source: North Dakota Century Code Section 39-10.1-02)

**9.1203 Obedience Traffic Control Devices**

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

**9.1204 Riding on Sidewalks**

1. No person shall ride a bicycle upon a sidewalk within a business district.
2. The chief of police or authorized person may erect signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person and when such signs are in place no person may disobey the same.
3. 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.

**9.1205 Riding on Roadway and Bicycle Path**

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

1. 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.
2. 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**

The provision of North Dakota Century Code Section 39-10.1-04 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle 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 Article.**

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

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**

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

1. 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 feet [152.4 meters] to the front and with a red reflector on the rear of a type approved by the department. A lamp emitting a red light visible from a distance of five hundred feet [152.4 meters] to the rear may be used in addition to the red reflector.
2. 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 Motorized Bicycle - Age of Operator**

Repealed by S.L. 1983, Ch. 414, § 6.

**9.1210 Parking**

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

**9.1211 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 of Wilton, except when officially sanctioned to do so by the chief of police of the city.

**9.1212 Point System Not Applicable**

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

Any violation of this chapter, or any moving violation as defined in section 39-06.1-09, or any nonmoving violation as defined in section 39-06.1-08 when committed on a bicycle as defined in section 39-01-01, is not cause for the licensing authority to assess points against the driving record of the violator pursuant to section 39-06.1-10. Any other legally authorized penalty for a criminal traffic offense or noncriminal traffic violation is applicable to bicyclists.

**Article 13: Angle Parking**

**9.1301 Angle Parking**

The city engineer or other person authorized by the governing body may mark or sign streets upon which angle parking will be permitted {other than federal aid or state highways). Upon those streets which have been signed or marked for angle parking, no person 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 Angle Parking - Where**

Angle parking shall also be permitted on the following streets:

Dakota Avenue between Railroad Avenue and 2nd Street- on the North side only

**9.1303 Close to Curb**

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

**9.1304 Method of Parking- Penalty**

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

**Article 14: Stopping, Standing or Parking Prohibited in Specific Places**

**9.1401 Parking Prohibited - All Times**

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

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

The provisions of North Dakota Century Code Section 39- l0-47 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. Upon any highway outside of a business or residence district no person may stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park, or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway of not less than twelve feet [3.66 meters] opposite a standing vehicle must be left for the free passage of other vehicles and a clear view of such stopped vehicles must be available from a distance of two hundred feet [60.96 meters] in each direction upon such highway.
2. This section and sections 39-10-49 and 39-10-50 do not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

**9.1403 Officers Authorized to Remove Illegally Stopped Vehicles**

The provisions of North Dakota Century Code Section 39-l0-48 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. Whenever any police officer finds a vehicle standing upon a highway in violation of any of the provisions of section 39-10-47, such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of such highway.
2. Whenever any police officer finds a vehicle unattended upon any highway, bridge, or causeway, or in any tunnel where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.
3. Any police officer is hereby authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:

   a. A report has been made that such vehicle has been stolen or taken without the 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. 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.
4. Whenever any authorized law enforcement officer finds, on state charitable or penal institution property or on the state capitol grounds, a vehicle standing, stopped, or parked in a dangerous location or in violation of any official traffic-control device prohibiting or restricting the stopping, standing, or parking of any vehicle, the officer shall place a written warning on the vehicle for the first offense and thereafter an authorized traffic citation may be issued. However, no traffic citation may be issued for a violation of this subsection occurring on the state capitol grounds during a legislative session.

**9.1404 Stopping, Standing or Parking Prohibited in Specified Places**

The provisions of North Dakota Century Code Section 39-l0-49 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
No person may stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection.
4. Within ten feet [3.05 meters] of a fire hydrant.
5. On a crosswalk.
6. Within ten feet [3.05 meters] of a crosswalk at an intersection.
7. Within fifteen feet [4.57 meters] upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway.
8. Between a safety zone and the adjacent curb or within fifteen feet [4.57 meters] of points on the curb immediately opposite the ends of a safety zone, unless the department or local authority indicates a different length by signs or markings.
9. Within fifteen feet [4.57 meters] of the nearest rail of a railroad crossing.
10. Within twenty feet [6.10 meters] 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 feet [22.86 meters] of said entrance when properly signposted.

11. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic.
12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
14. At any place where official signs prohibit stopping.

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

**9.1405 Additional Parking Regulations**

The provisions of North Dakota Century Code Section 39-l0-50 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway must be so stopped or parked with the right-hand wheels of such vehicle parallel to and within twelve inches [30.48 centimeters] of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.
2. Except where otherwise provided by local 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 inches [30.48 centimeters] 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 inches [30.48 centimeters] of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.
3. Local authorities may by ordinance 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.
4. The department 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.
5. The department, with respect to streets, roadways, and parking areas of any state charitable or penal institution and on the state capitol grounds, may authorize the purchase and placement by the supervisory agency of official traffic-control devices prohibiting or restricting the stopping, standing, or parking of vehicles. The placement of signs pursuant to this section must be done when, in the department's opinion, the

stopping, standing, or parking is dangerous or would unduly interfere with the free movement of traffic, especially the free flow of traffic required for proper fire protection. No person may stop, stand, or park any vehicle in violation of the restriction indicated by any official traffic-control device. Any registered owner must be presumed to have been the operator of a vehicle that is parked in violation of any official traffic-control device prohibiting or restricting the stopping, standing, or parking of vehicles on any highway, state charitable or penal institution property, or on the state capitol grounds. This presumption may be rebutted by a showing of clear and convincing evidence to the contrary. However, no traffic citation may be issued for a violation of this subsection occurring on the state capitol grounds during a legislative session, except that a written warning must be placed on any vehicle for such a violation.

**9.1406 Stopping - Parking - Certain Purposes Prohibited**

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

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

**9.1407 Stopping - Parking - Congested - Hazardous Places**

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

**9.1408 Stopping - Parking - In Alleys**

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

**9.1409 Parking Adjacent to Schools**

1. The city traffic engineer or authorized person may erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

2. When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person may park a vehicle in any such designated place.

**9.1410 Stopping - Parking - Over 48 Hours**

It shall be unlawful for anyone to park or leave standing on any public street or highway in the City any vehicle for a period longer than forty-eight (48) hours consecutively, with exception for titled vehicles from May1st through October 1st, provided this section shall not include any area where a shorter time is provided for parking, nor shall this section be construed to permit parking, nor shall this section be construed to permit parking for a longer time than is provided in such areas.

**9.1411 Parking Privileges for Mobility-Impaired - Certificate – Revocation***

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

1. 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, or a disabled veteran plate issued under subdivision j of subsection 2 of section 39-04-18 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.
2. 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 j of subsection 2 of section 39-04-18.
3. Repealed by S.L. 1989, Ch. 319, § 6.
4. 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 2. 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 or under subdivision j of subsection 2 of section 39-04-18, 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.

5. 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 4, 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. 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.

6. 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.
7. 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.
8. 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 1 is guilty of an infraction for which a fine of one hundred dollars must be imposed.
9. 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] 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 the space is a temporary moility-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.

10. 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, 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.
11. 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.
12. An entity that violates the requirements of subsection 9 is guilty of an infraction if the entity does not comply with subsection 9 within sixty days after receiving official notification of the violation.
13. 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.

(* See Appendix)

## Article 15: Reserved Parking Areas

### 9.1501 Reserved Parking Areas

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

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

**Article 16: Time Limit Parking Zones**

**9.1601 Time Limit Parking Zone**

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

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

**Article 17: Equipment of Vehicles**

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

1. Every motor vehicle shall be equipped with a windshield. No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings or side or rear windows which 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 shall be so constructed as to be controlled or operated by the driver of the vehicle
3. Every windshield wiper upon a motor vehicle shall be maintained in good working order.
4. A person may not operate a motor vehicle with any object 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 No. 205.

**9.1702 Child Restraint Devices – Evidence**

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

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 child restraint system for each such child. However, a child under the age of seven who is at least fifty-seven inches [1.45 meters] tall and who weighs at least eighty pounds [36.28 kilograms] 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 [18.14 kilograms] 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 section does not apply.

2. Violation of this section 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.
3. Violation of this section is punishable by a fine of twenty-five (25) dollars and one point against the license of the driver.
4. For purposes of this section, "child restraint system" remains a specifically designed device, built-in seating system, or belt-positioning booster that meets the Federal Motor Vehicle Safety Standards and is permanently affixed to a motor vehicle, is affixed to the vehicle by a safety belt or universal attachment system, or is combined with a federally compliant safety belt system**.**

**9.1703 Vehicle Transporting Explosives or Hazardous Materials - Administrative Procedure and Judicial Review.**

The provisions of North Dakota Century Code Section 39- 21-44and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Any person operating any vehicle transporting any explosive or hazardous material as a cargo or part of a cargo upon a highway shall comply with this section.

1. The vehicle must be equipped with at least one fire extinguisher, filled and ready for immediate use, and placed at a convenient point on the vehicle.
2. The superintendent of the state highway patrol shall adopt rules for the safe transportation of hazardous materials. Rules must duplicate or be consistent with current hazardous materials regulations of the United States department of transportation. The superintendent of the state highway patrol may adopt the hazardous materials regulations by reference and any adoption must be construed to incorporate amendments as may be made from time to time.

**9.1704 Use of Safety Belts – Enforcement**

The provisions of North Dakota Century Code Section 39- 21-44and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Subject to the limitations of this section and section 39-21-41.5, a driver may not operate upon a highway a motor vehicle designed for carrying fewer than eleven passengers, which was originally manufactured with safety belts unless each front seat occupant is wearing a properly adjusted and fastened safety belt. This section does not apply to a child in a child restraint or seatbelt in accordance with section 39-21-41.2; to drivers of implements of husbandry; to

operators of farm vehicles as defined in subsection 5 of section 39-04-19; 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 section is not admissible in any proceeding other than one charging the violation.

**9.1705 Drawbar or connection between vehicles - Precautions Required.**

The provisions of North Dakota Century Code Section 39- 21-44.2 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

The drawbar or other coupling device between vehicles, one of which is towing or drawing the other on a highway, must include safety chains connecting the vehicles. The drawbar or other coupling device, and the safety chains, must be of a design, strength, and construction so as to prevent the unintentional uncoupling of the vehicles. The safety chain requirement of this section does not apply to:

1. A fifth-wheel coupling device; or
2. A vehicle towing an implement of husbandry or an implement of husbandry towing a vehicle, when operated at a speed not exceeding twenty-five miles [40.23 kilometers] per hour.

**9.1706 Modification of Motor Vehicle**

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

Except as otherwise provided in this section, 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 pounds [3175.14 kilograms] or less with alterations or changes from the manufacturer's original design of the suspension, steering, or braking system of the motor vehicle. The weight must be computed on the basis of the unmodified and unloaded weight of the motor vehicle and without regard to any ballast that may be placed in the vehicle. As to bumpers, motor vehicle height, and permitted modifications, the following requirements also apply:

1. The motor vehicle must be equipped with front and rear bumpers.

2. The maximum body height permitted for the motor vehicle is forty-two inches [106.68 centimeters]. Measurement of body height is made from a level ground surface to the floor of the cargo area.
3. The maximum bumper height permitted is twenty-seven inches [68.58 centimeters]. Measurement of bumper height is made from a level ground surface to the highest point on the bottom of the bumper.
4. The vehicle may be modified in accordance with the following:
    a) Any modifying equipment must meet specialty equipment marketing association standards.
    b) If tires placed on a motor vehicle have a diameter greater than that of the tires on the motor vehicle as manufactured, those tires must comply with department of transportation requirements.
    c) The maximum outside diameter permitted for tires is forty-four inches [111.76 centimeters].
    d) A horizontal drop bumper may be used to comply with the bumper height requirement of subsection 3. The horizontal bumper must:
        i) Be at least three inches [7.62 centimeters] in vertical width;
        ii) Extend the entire horizontal body width; and
        iii) Be horizontal, load bearing, and attached to the vehicle frame to effectively transfer impact when engaged.
    e) The maximum lift permitted in the suspension system is four inches [10.16 centimeters].
5. A person charged with violating this section has the burden of proceeding to show that the modifications are permitted under this section.
6. Vehicles owned by law enforcement agencies, the military, firefighting agencies, and ambulances may be modified without regard to this section.
7. The director may adopt rules to implement this section.

**<u>9.1707 Scope and Effect of Equipment Requirements – Penalty</u>**

The provisions of North Dakota Century Code Section 39- 21-46 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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 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 chapter for which a fee or penalty for its violation is not otherwise provided.

2. A person who drives or moves, or any owner who causes or knowingly permits to be driven or moved upon a highway, any vehicle or combination of vehicles which that person knows is in such unsafe condition as to endanger a person is guilty of an infraction.
3. The superintendent of the state highway patrol shall, under chapter 28-32, adopt necessary rules concerning the safe operation of motor vehicles and when and how motor carrier audits or inspections will be conducted. The rules must duplicate or be consistent with current motor carrier safety regulations of the United States department of transportation. The superintendent of the state highway patrol may adopt the motor carrier safety regulations by reference, and any adoption must be construed to incorporate amendments as may be made from time to time. A violation of rules adopted under this subsection is a noncriminal violation. A person who fails or refuses to comply with these rules must be assessed a fee in the amount set forth in section 39-06.1-06 for each violation.
4. Nothing contained in this chapter may be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.
5. The provisions of this chapter 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.
6. The provisions of this chapter with respect to equipment required on vehicles do not apply to motorcycles or motor-driven cycles, except as specifically made applicable.
7. The provisions of this chapter and regulations of the department do not apply to vehicles moved solely by human power, except as specifically made applicable.

**9.1708 Alteration of Odometers or Other Mileage Recorders – Penalty**

The provisions of North Dakota Century Code Section 39-21-51 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

A person may not willfully, as defined in section 12.1-02-02, alter a motor vehicle odometer or other mileage recorder, hour meter on tachometer, or other hour recorder, or offer for sale or sell a motor vehicle knowing the odometer or other mileage recorder has been altered, for the purpose of deceiving another. Violation of this section is a class C felony if the person has previously been convicted of violating this section, or if the person has violated this section with respect to more than one vehicle, and a class B misdemeanor in all other cases.

**Article 18: Motorcycle Equipment**

**9.1801 Purpose**

For the purpose of this article, the provisions of North Dakota Century Code Section 39-27 and all subsequent amendments shall be and are hereby by reference in this ordinance.
It is the purpose of this chapter to establish performance and equipment required for the manufacture, sale and safe operation of a motorcycle upon public highways, and to furnish administrators with a guide for registration eligibility and continued conformity as related to motorcycles

**9.1802 Manufacturer's or Distributor's Certificate**

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 upon transfer of vehicle ownership.

**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 inches [101.6 centimeters].

**9.1804 Brakes**

1. Every motorcycle must have either a split service brake system or two independently actuated service brake systems in accordance with rules adopted by the director pursuant to chapter 28-32. 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 pursuant to chapter 28-32.
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 pursuant to chapter 28-32. A suitable mechanism must 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.

**9.1805 Brakes on Motor-Driven Cycles**

The department may require an inspection of the brake on any motor-driven cycle and may disapprove any brake which is not so designed or constructed as to ensure reasonable and reliable performance in actual use.

**9.1806 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.
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.

**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 [35.56 centimeters] positive
    b) MINIMUM: Rake: 20 degrees - Trail: 2 inches [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.
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.

**9.1808 Fuel System**

1. All fuel system components, including the tank, pump, tubing, hoses, clamps, and other components, 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.

**9.1809 Exhaust System - 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.

**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 square inches [64.52 square centimeters]. All mirrors shall not contain sharp edges or projections capable of producing injury.

**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.

**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 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.

**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.

**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 must be of substantial construction to hold the vehicle so equipped.

**9.1815 Glazing**

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.
b) The metal support must be of a material which bends rather than fragments under impact.
c) Covering material, other than glazing, must be beaded at the edges to prevent fraying

**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. The horn must operate from a control device located on the left handlebar.

**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.

**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 rule of the director.
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 section 39-21-04.
5. A motorcycle must be equipped with a stop lamp in accordance with subsection 1 of section 39-21-19.

**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 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.
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.

**9.1820 Passenger Seat**

Motorcycles designed to carry more than one person must be equipped with a securely mounted seat for each passenger located to the side or rear of the driver such that the passenger seat does not interfere with the driver's control or operation of the vehicle. In the case of a two- wheel vehicle, the passenger seat must be located on the longitudinal centerline of the motorcycle.

**9.1821 Handhold**

Repealed by S.L. 1985, Ch. 451, § 1.

**9.1822 Footrests**

Footrests must be provided for each designated seating position. Each footrest for a passenger must be so designed and constructed to support a static weight of two hundred fifty pounds [113.40 kilograms] 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.

**9.1823 Highway Bars**

If a motorcycle is so equipped, highway bars must have a maximum width of twenty-six inches [66.04 centimeters], must be located less than fifteen inches [38.1 centimeters] from the foot controls, and may not interfere with the operation of the foot controls.

**9.1824 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 department before they will be available for use within the state.

**Article 19: Lighted Lamps Required**

**9.1901 When Lighted Lamps are Required - Penalty**

The provisions of North Dakota Century Code Section 39-21-01 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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:

1. At any time from sunset to sunrise, and every farm tractor upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise;
2. At any time when it is raining, snowing, sleeting, or hailing or during other adverse driving conditions and these conditions do not render a person or vehicle on the highway clearly discernible at a distance of one thousand feet [304.8 meters] ahead; or
3. At any other time when visibility is impaired by weather, smoke, fog, or other conditions, or when there is insufficient light to render a person or vehicle on the highway clearly discernible at a distance of one thousand feet [304.8 meters] ahead.

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

Any person who violates the provisions of this section shall be assessed a fee of Five and No/100 Dollars ($5.00) for each violation.

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

**Article 21: Criminal Traffic Violations**

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

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

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:

1. 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.
    a. That person is under the influence of intoxicating liquor.
    b. 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.
    c. 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.
    d. That individual refuses to submit to any of the following:
        i. 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 if the individual is driving or is in actual physical control of a commercial motor vehicle; or
        ii. 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 39-20-01; or
        iii. 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 section 39-20-1

    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.

2. 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 section 39-06.2-10.2, 39-20-01, or 39-20-14, is guilty of an offense under this section.
3. 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.
4. 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 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.
5. 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 chapter 54-12 as a mandatory condition of probation.
c. For a third offense within seven years, the sentence must include at least one hundred twenty days' imprisonment; a fine of at least two thousand dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; at least one year's supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
d. For a fourth or subsequent offense, the sentence must include at least one year and one day's imprisonment; a fine of at least two thousand dollars; an order for addiction evaluation by an appropriate licensed treatment program; at least two years' supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
e. The imposition of sentence under this section may not be deferred under subsection 4 of section 12.1-32-02 for an offense subject to this section.
f. 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. If the offense is subject to subdivision c, the district court may suspend a sentence, except for sixty days' imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation and upon completion of the twenty-four seven sobriety program. If the offense is subject to subdivision d, the district court may suspend a sentence, except for one year's imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the defendant is found to be in need of alcohol and substance abuse treatment and rehabilitation, the district court may order the defendant placed under the supervision and management of the department of corrections and rehabilitation and is subject to the conditions of probation under section 12.1-32-07. 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.

g. 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.

h. 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 appropriate licensed addiction treatment program under subdivision g of subsection 1 of section 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.

i. 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.

6. As used in subdivisions b and c 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.
7. As used in this title, participation in the twenty-four seven sobriety program under chapter 54-12 means compliance with sections 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.

**9.2102 Prior Offenses**

For purposes of this article, Article 9.22, and Chapter 39-20, North Dakota Century Code, a previous conviction does not include any prior violation of Article 9.2101 if the offense occurred prior to July l, l981. (North Dakota Century Code Section 39-08-01)

**9.2103 Reckless Driving – Penalty**

The provisions of North Dakota Century Code Section 39-08-03 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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

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

Except as otherwise herein provided, any person violating the provisions of this section is guilty of a class B misdemeanor. Any person who, by reason of reckless driving as herein defined, causes and inflicts injury upon the person of another, is guilty of aggravated reckless driving, and is guilty of a class A misdemeanor.

**9.2104 Accidents Involving Damage to Vehicle – Penalty**

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

The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event, shall remain at the scene of such accident until the driver has fulfilled the requirements of section 39-08-06. 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 a class B misdemeanor.

**9.2105 Duty Upon Striking Unattended Vehicle – Penalty**

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

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of the vehicle of the name and address, as well as the name of the motor vehicle insurance policy carrier, of the

driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address, as well as the name of the motor vehicle insurance policy carrier, of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances of the collision. Any person violating this section is guilty of a class A misdemeanor.

**9.2106 Duty Upon Striking Fixtures Upon a Highway**

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

The driver of any vehicle involved in an accident resulting only in damage to highway fixtures or other property 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 the driver's operator's or chauffeur's license and shall make report of such accident when and as required in section 39-08-09.

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

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

Except as provided in section 39-06.1-11, 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.

If the suspension or revocation was imposed for violation of section 39-08-01 or equivalent ordinance or was governed by section 39-06-31 or chapter 39-20, 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. 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.

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.

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, 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.

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 Definitions for Operation of Snowmobiles**

The provisions of North Dakota Century Code Section 39-24-01 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
For the purposes of this chapter:

1. "Collector snowmobile" means a snowmobile that is twenty-five years old or older, was originally produced as a separate identifiable make by a manufacturer, and is owned and operated solely as a collector's item.
2. "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.
4. "Operate" means to ride in or on and control the operation of a snowmobile.
5. "Operator" means every person who operates or is in actual physical control of a snowmobile.
6. "Owner" means a person, other than a lienholder, having the property in or title to a snowmobile and who is entitled to the use or possession of that snowmobile.
7. "Register" means the act of assigning a registration number to a snowmobile.
8. "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel.
9. "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.

**9.2109 Rules for Operation of Snowmobiles**

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

1. No person may operate a snowmobile upon the roadway, shoulder, or inside bank or slope of any road, street, or highway in this state except as provided pursuant to this chapter. No snowmobile may be operated at any time within the right of way of any interstate highway within this state except as provided in this section.
2. A snowmobile may make a direct crossing of a non-interstate street or highway provided:
    a. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
    b. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
    c. The driver yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
    d. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.
3. No snowmobile may be operated unless it is equipped with at least one headlamp, one tail lamp, and brakes, all in working order, which conform to standards prescribed by rule of the director pursuant to the authority vested in the director by this code and this chapter.
4. The emergency conditions under which a snowmobile may be operated other than as provided by this chapter must be such as to render the use of an automobile impractical under such conditions at such period of time and location.
5. It is unlawful for any person to drive or operate any snowmobile in the following ways which are declared to be unsafe and a public nuisance:
    a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
    b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
    c. While under the influence of intoxicating liquor or a drug as defined in section 39-24.1-01, 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 where 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 must be readable from the outside of the land and must be placed conspicuously at a distance of not more than eight hundred eighty 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 a posting of all the enclosed lands.

6. It is unlawful for any person to operate a snowmobile pursuant to chapter 39-24 without having in possession a valid driver's license, except as provided by section 39-24-09.1.
7. If a snowmobile is operated within the right of way of any road, street, or highway of this state under this chapter, during times or conditions that warrant the use of lights, the snowmobile operator 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. An operator of a snowmobile traveling on a snowmobile trail maintained by the parks and recreation department which is within the right of way of any road, street, or highway of this state is exempted from this rule. The operator shall wait for all traffic to clear the roadway before crossing bridges and other similar structures.
8. 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 between April first and November first of any year.
9. No snowmobile may be operated at any time within the right of way of any highway within this state while towing a sled, skid, or other vehicle, unless the sled, skid, or other vehicle is connected to the snowmobile by a hinged swivel and secure hitch.
10. No person under the age of eighteen years may operate, ride, or otherwise be propelled on a snowmobile unless the person wears a safety helmet meeting United States department of transportation standards.
11. A person may not operate a snowmobile, and an owner of a snowmobile may not knowingly permit the snowmobile to be operated, upon any property maintained, leased, or owned by the state parks and recreation department to which the public has a right of access for snowmobile or other vehicular use, without a policy of liability insurance which insures the person named, and any person using the snowmobile with the express or implied permission of the person named, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of the snowmobile within this state, subject to the following limits, exclusive of interest and costs, with respect to each snowmobile: twenty-five thousand dollars because of bodily injury to or death of one

person in any one accident and, subject to the limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and twenty-five thousand dollars because of injury to or destruction of property of others in any one accident. Upon request of a law enforcement officer, a person operating a snowmobile shall provide proof of liability insurance to that officer within twenty days.

12. A snowmobile may not be operated within the right of way of any interstate highway within this state except:
    a. For emergency purposes; or
    b. Across an interstate highway on an overpass or underpass, except where otherwise prohibited by law or by signing, provided the snowmobile crosses on the extreme right side of the overpass or underpass.

**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 any dike or flood protective works constructed by a state or federal agency, or by any municipality or local subdivision of the state.
2. Any person violating the provisions of this section shall be liable to any person suffering injury as a result of the violation; and in addition, shall be guilty of a class B misdemeanor.

**9.2111 Driving Without a License**

No person shall drive any motor vehicle upon a highway in this City unless such person has a valid license as an operator, or is expressly exempted from licensing requirements, by the laws of this state.

**9.2112 License to be Carried and Exhibited on Demand**

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

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.

**9.2113 Penalty**

The provisions of North Dakota Century Code Section 39-12-21 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.
Any driver of a vehicle who refuses to stop and submit the vehicle and load to a weighing when directed to do so by any police officer or any agent of this state having police powers relating to motor vehicles is guilty of a class B misdemeanor.

**9.2114 Definitions for Operation of Off-Highway Vehicles**

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

**9.2115 Rules for Operation and Registration of Off-Highway Vehicles**

For the purpose of this article, the provisions of North Dakota Century Code Section 39-29 and all subsequent amendments shall be and are hereby adopted.

**Article 22: Disposition of Traffic Offenses**

**9.2201 Halting Person for Violating Traffic Regulations - Duty of Officer Halting**
The provisions of North Dakota Century Code Section 39-07-07 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Whenever any person is halted for the violation of any of the provisions of 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 section 39-07-09 and section 39-20-03.1 or 39-20-03.2, may:

1. Take the name and address of the person;
2. Take the license number of the person's motor vehicle; and
3. If a city ordinance or state criminal traffic violation, 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 or, if a state noncriminal traffic violation, notify the person of the right to request a hearing when posting bond by mail.

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

**9.2202 Hearing- Time- Promise of Defendant to Appear- Failure to Appear- Penalty**
The provisions of North Dakota Century Code Section 39-07-08 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

The time to be specified in the summons or notice provided for in section 39-07-07 must be within thirty-five days after the issuance of the summons or notice or earlier if so ordered by the magistrate of the city or county having jurisdiction over the offense 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 hours. The hearing must be before a magistrate of the city or county in which the offense was committed. If an immediate hearing is demanded, a district judge serving the county, with the consent of the respective prosecuting attorneys, may order the hearing to be held in any of the counties in which the district judge has jurisdiction, rather than in the county where the offense was allegedly committed. Upon the receipt from the person halted of a written promise to appear at the time and place mentioned in the summons or notice, 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 a class B misdemeanor, regardless of the disposition of the charge upon which the person originally was halted. The time limitations for a hearing as provided by this section do not preclude a recharging of the alleged violation if the person being charged receives a new summons or notice subject to the provisions of this section.

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

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

Section 39-07-07 does not apply to a person if:

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

**9.2204 Traffic Violations Noncriminal- Exceptions- Procedures**

Any person cited, in accordance with the provisions of Section 39-07-07 and 39-07-08 of the North Dakota Century Code, for a traffic violation under state law of municipal ordinance, other than an offense listed in Section 39-06.01-05 of the North Dakota Century Code, shall be

deemed to be charged with a noncriminal offense and may appear before the designated official and pay the statutory fee for the violation charged at or prior to the time scheduled for a hearing, or, if he posted bond in person, as provided by Section 39-07-07 of the North Dakota Century Code, or by mail, he may forfeit bond by not appearing at the designated time. If the person appears at the time scheduled in the citation, he may make a statement in explanation of his action, and the official may at the time, in his direction, waive, reduce, or suspend the statutory fee or bond, or both. If the person cited follows the foregoing procedures, he shall be deemed to have admitted the violation and to have waived his right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the official designated in the citation shall be identical to the statutory fee established by 39-06.1-06 of the North Dakota Century Code. Within ten (10) days after the forfeiture of bond or payment of the statutory fee, the official having jurisdiction over the violation shall certify to the licensing authority:

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

This section shall not be construed as allowing a halting officer to receive the statutory fee or bond, unless he is otherwise authorized by law to do so.

**9.2205 Administrative Hearing - Procedures - Appeals - Stay Orders**

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

1. An individual cited for a traffic violation, other than an offense listed in section 39-06.1-05, who does not follow one of the procedures in section 39-06.1-02, 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.
2. 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.
3. If an individual cited for a traffic violation, other than an offense listed in section 39-06.1-05, 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.

4. 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.
5. 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.
    a. The appellate court upon application by the appellant may:
        i. 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;
        ii. 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
    b. Deny the application.
        i. 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.

6. 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.

**9.2206 Failure l o Appear. Pay Statutory Fee. Post Bond - Procedure – Penalty**

The provisions of North Dakota Century Code Section 39-06.01-04 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

If an individual fails to choose one of the methods of proceeding in section 39-06.1-02 or 39-06.1-03, 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.

**9.2207 Offenses Excepted**

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

The procedures authorized under sections 39-06.1-02 and 39-06.1-03 may not be utilized by a person charged with one of the following offenses:

1. Driving or being in actual physical control of a vehicle in violation of section 39-08-01, or an equivalent ordinance.
2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or an equivalent ordinance.
3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.

4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances.
5. Driving while license or driving privilege is suspended or revoked in violation of section 39-06-42, or an equivalent ordinance.
6. Violating subdivision b or c of subsection 5 of section 39-24-09.
7. Operating a modified motor vehicle in violation of section 39-21-45.1.
8. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.
9. 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.

**9.2208 Amount of Statutory Fees**

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

The fees required for a noncriminal disposition under section 39-06.1-02 or 39-06.1-03 must be as follows:

1. For a nonmoving violation as defined in section 39-06.1-08, a fee of twenty dollars except for a violation of any traffic parking regulation on any state charitable or penal institution property or on the state capitol grounds, a fee in the amount of five dollars, excluding a violation of subsection 10 of section 39-01-15.
2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:
    a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, or 39-10-42, a fee of fifty dollars.
    b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.
    c. A violation of section 39-21-41.2, a fee of twenty-five dollars.
    d. A violation of subsection 1 of section 39-12-02 or section 39-08-23, a fee of one hundred dollars.
    e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one hundred dollars.
    f. A violation of subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, a fee of one hundred dollars.
    g. A violation of subsection 2 of section 39-10-21.1, a fee of two hundred fifty dollars.
    h. A violation of section 39-10-59, a fee of one hundred dollars.
    i. A violation of section 39-09-01, a fee of thirty dollars.

j. A violation of section 39-09-01.1, a fee of thirty dollars.
k. A violation of section 39-10-46 or 39-10-46.1, a fee of one hundred dollars.

3. For a violation of section 39-21-44 or a rule adopted under that section, a fee of two hundred fifty dollars.
4. Except as provided in subsections 7 and 11, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows: Miles per hour over

| Lawful Speed Limit | Fee |
|---|---|
| 1 - 5 | $ 5 |
| 6 - 10 | $ 5 plus $1/each mph over 5 mph over limit |
| 11 - 15 | $ 10 plus $1/each mph over 10 mph over limit |
| 16 - 20 | $ 15 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 |

5. On a highway on which the speed limit is a speed higher than fifty-five miles [88.51 kilometers] an hour, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows: Miles per hour over

| Lawful Speed Limit | Fee |
|---|---|
| 1 - 10 | $2/each mph over limit |
| 11 + | $20 plus $5/each mph over 10 mph over limit |

6. For a violation of subsection 3 of section 39-21-46, a fee established as follows:
   a. Driving more than eleven hours since the last ten hours off duty, driving after fourteen hours on duty since the last ten hours off duty, driving after sixty hours on duty in seven days or seventy hours in eight days, no record of duty status or log book in possession, failing to retain previous seven-day record of duty status or log book, or operating a vehicle with four to six out-of-service defects, one hundred dollars;
   b. False record of duty status or log book or operating a vehicle with seven to nine out-of-service defects, two hundred fifty dollars;
   c. Operating a vehicle after driver placed out of service, operating a vehicle with ten or more out-of-service defects, or operating a vehicle that has been placed out of service prior to its repair, five hundred dollars; and
   d. All other violations of motor carrier safety rules adopted under subsection 3 of section 39-21-46, fifty dollars.

7. On a highway on which the speed limit is posted in excess of sixty-five miles [104.61 kilometers] an hour, for a violation of section 39-09-02, or equivalent ordinance, a fee of five dollars for each mile per hour over the limit.
8. For a violation of a school zone speed limit under subdivision b of subsection 1 of section 39-09-02, 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.
9. For a violation of a highway construction zone speed limit under subsection 2 of section 39-09-02, a fee of eighty dollars for one through ten miles per hour over the posted speed; and eighty dollars plus two dollars for each mile per hour over ten miles per hour over the limit, unless a greater fee would be applicable under this section. The fee in this subsection does not apply to a highway construction zone unless individuals engaged in construction are present at the time and place of the violation and the posted speed limit sign states "Minimum Fee $80".

**9.2209 "Nonmoving Violation" Defined**

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

For the purposes of section 39-06.1-06, a "nonmoving violation" means:

1. A violation of section 39-04-11, subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, subsection 4 of section 39-06-17, and section 39-06-44, 39-06-45, 39-10-47, 39-10-49, 39-10-50, 39-10-51, 39-10-54.1, 39-21-08, 39-21-10, 39-21-11, or 39-21-14, or a violation of any municipal ordinance equivalent to the foregoing sections.
2. A violation, discovered at a time when the vehicle is not actually being operated, of section 39-21-03, 39-21-05, 39-21-13, 39-21-19, 39-21-32, 39-21-37, 39-21-39, or 39-21-44.2, or a violation of any municipal ordinance equivalent to the foregoing sections.

**9.2210 "Moving Violation" Defined**

The provisions of North Dakota Century Code Section 39-06.1-09 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01, 39-06-14, 39-

06-14.1, 39-06-16, 39-08-20, 39-08-23, 39-08-24, 39-09-01, 39-09-01.1, 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02, section 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5 of section 39-24-09, or equivalent ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except subsection 5 of section 39-10-26, sections 39-21-44 and 39-21-45.1, subsections 2 and 3 of section 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

**9.2211 General Penalty for Violation of Chapter**

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

Any person violating any of the provisions of this title for which another criminal penalty is not provided specifically is guilty of an infraction. As used in this section, the phrase "another criminal penalty" includes provision for payment of a fixed fee for violating another section in this title but does not include any other administrative sanction which may be imposed.

**9.2212 Notification of Parents or Guardians of Juvenile Traffic Offenders**

The municipal judge or his 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 20, inclusive, are not adopted by reference.

**Article 24: Filing of Ordinances**

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

**Article 25: Adoption of Amendments by Reference**

The adoption of certain portions of Title 39 by reference shall be construed to incorporate such amendments thereto as may be made therein from time to time, and such copy of the adopted portions of Title 39 filed as required in ARTICLE 22 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 five hundred dollars ($ 500.00) or by imprisonment not to exceed thirty (30) days, or both.

**Snowmobiles**

An ordinance regulating and controlling snowmobiles in the City of Wilton, ND.

**Section III – Rules for Operation or Snowmobiles**

1. No person shall operate a snowmobile upon a sidewalk or boulevard of this city
2. No person shall operate a snowmobile upon the property of another without permission of the owner, his agent or lessee
3. No person shall operate a snowmobile in Dakota Avenue except in crossing of Dakota Avenue provided:
    a. The crossing is made at an angle of approximately ninety 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 s complete stop before crossing the shoulder or main travelled way of the highway; and
    c. The driver yields the right a way to all oncoming traffic which constitutes an immediate hazard.
4. No snowmobile shall be operated upon a street unless it is equipped with;
    a. At least one headlamp of sufficient intensity to reveal a person or vehicle not less than one hundred feet.
    b. One tail lamp mounted on the rear of the vehicle capable of being see and distinguished under normal atmospheric conditions at the time lights are required at a distance of 400 feet from the rear of the snowmobile.
    c. Brakes capable of controlling the vehicle under normal operating conditions.
    d. Manufacture installed or equivalent muffler in good working order and connected to the exhaust system.
    e. A twelve (12) inch square red flag projecting at least 48 inched above sea level and attached to a rod mounted on the rear of the snowmobile.
5. No person shall operate a snowmobile within the City between the hours of 11:01 p.m. and 7:00 a.m. of any day except upon special circumstance specifically permitted by the Chief of Police.
6. It shall be 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 10 miles per hour.
    b. On a careless, reckless or negligent manner so as to endanger the person or property of another to cause injury or damage to such persons or property.
    c. While under the influence of intoxicating liquor or narcotics or habit forming drugs.
    d. Without a lighted headlamp or tail lamp when required, for safety.

7. It shall be unlawful for any person a snowmobile within this city without having in his possession valid currently in effect driver's license.
8. It shall be unlawful to parka snowmobile on any street of the city except alleys.

**Section IV – Penalty**

Any person found guilty of violating any of the provisions of the ordinance shall be punished by a fine of not more than one hundred fifty dollars ($150.00) or by imprisonment not to exceed thirty (30) days, or both such fine and imprisonment in the discretion of the Court.

# CHAPTER TEN – HEALTH

## Article 1: Board of Health

### 10.0101 Members

The Board of Health shall be (commissioned city) The Board of City Commissioners and the city health officer or city physician; (council city) Aldermen and the city health officer or city physician; who shall have and exercise all powers under the law.

### 10.0102 Regulations, Notice of

Notice shall be given by the Board of Health, pursuant to the laws of the State of North Dakota, of all general orders and regulations made by such board, by publishing the same in the official newspaper within the jurisdiction of the board, which publication shall be deemed a legal notice to all persons.

**Article 2: Contagious Diseases**

**10.0201 Duty of Health Officer**

He shall properly instruct the physicians within his jurisdiction in the proper methods to employ in reporting contagious and other diseases, and shall furnish each physician with the necessary blanks for that purpose, said blanks to be of the form prescribed by the State Board of Health. He shall keep a record of all dangerous, contagious and infectious diseases occurring within his jurisdiction, which record shall show the name and address of the party affected, the name of the disease, by whom reported, and such other statistical data as may be required by the State Board of Health, and shall perform such other duties as may be prescribed by the laws of the state and the ordinances of the city.

**10.0202 Report Required of Diseases**

Every physician called in to care for and treat a person afflicted with a contagious disease or any epidemic disease shall make a report of the same within twenty-four (24) hours after being called in to the Health Officer. In case no physician is in attendance it shall be the duty of the person to make a report within twenty-four (24) hours from the time the disease is recognized.

**10.0203 Quarantine**

The Health Officer shall have charge of the enforcement of the quarantine rules. He shall have the power and the authority to place any premises within which a contagious or epidemic disease occurs under quarantine, and the health officer shall determine the time when the quarantine ends.

**10.0204 Fumigation**

Premises which have been quarantined in accordance with the terms of the preceding section shall be thoroughly fumigated or otherwise freed from all risk of contagious diseases, under the supervision of the Health Officer before the quarantine shall end.

**10.0205 Spreading Contagion**

It shall be unlawful for any person to spread, willfully or carelessly, any contagious disease or to so cause the spread of the same.

**10.0206 Deliveries to Quarantined Premises**

No person engaged in the delivery of food or drink intended for human consumption shall not enter any premises which are quarantined because if the existence of a contagious or epidemic disease. No containers or bottles shall be removed from any such premises until the termination of the quarantine- and no such containers which has been left at such premises

during the quarantine shall be placed in use for carrying food or drink until it has been thoroughly sterilized.

**10.0207 Penalty**

The violation of any other provisions of this article shall be punishable by a fine of not less than One and No/100 Dollars ($1.00) or more than Five Hundred and NO/100 Dollars ($500.00) or by imprisonment not to exceed thirty (30) days or both such fine and imprisonment.

**Article 3: Garbage. Refuse. Rubbish**

**10.0301 Definitions**

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

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

**10.0302 Accumulation of Refuse Prohibited**

No person shall permit or suffer 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 suffer such yard, lot, place or premises to be or remain in such condition.

**10.0303 Containers**

All garbage and rubbish shall, by the person upon whose premises the same shall have been produced or accumulated, be placed in watertight, galvanized metal containers of not less than ten (10) nor more than thirty-one (31) gallons net capacity, which container shall be kept clean and continuously closed by a tight-fitting cover and shall be protected against the access of flies and rodents. Containers shall be stored in racks of sufficient size to hold three containers at least eighteen (18) inches above the ground.

Containers for wet garbage shall have plastic disposable liners.

Containers shall be placed in the alley of those lots having access to any alley and along the curb if no alley is accessible. The city may specify where containers shall be placed along the alley or street for 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, herein contained shall constitute a public nuisance and be punishable as such under the terms of Chapter Twelve of these ordinances.

**10.0306 City Collection**

All garbage and rubbish as defined herein shall be collected by the city of 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**

For the collection of garbage and rubbish by the city or franchised contractor and the disposal thereof there is hereby fixed and established t- following schedule of monthly fees and charges:

1. For each water meter or family unit charge as established by the Water Department of the city in residence, the sum of $12.00 shall be charged.
2. For each apartment house or residence building containing two (2) or more apartments, a fee of $12.00 for each apartment building.
3. For each commercial establishment, regardless of the nature thereof, from which garbage or rubbish is collected, a minimum charge of set by contractor per month, plus such additional amount as may be fixed and determined by the board of the governing body after a study of the kind and quantity of the garbage and rubbish or other factors incident to the collection thereof are determined, a schedule of such charges shall be filed in the office of the City Auditor and be available for public inspection.
4. An extra charge may be made for removal of ashes, garbage, refuse and rubbish not in containers on a basis of nature, amount and clean-up time required for removal.
5. Where burial pits for dead animals are required to be dug, a fee of_____per _____ pounds per animal shall be charged.
6. Fees shall be charged for private use of the dump grounds on a basis of nature and bulk.

All fees are to be billed to the owner of the property assessed, unless a_____month deposit is made in advance by a tenant. This deposit may be returned to the tenant at his request after _____years of regular payment of fees billed.

**10.0308 Fees - Payment – Collection**

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

In all places where water service is not provided, the charges above set forth shall be paid to the Water Department of the city upon quarterly bills from the Water Department.

If the garbage and rubbish charge so established is not paid when due, such sum may be recovered by the city, in an action at law against the owner or occupant, or both, of the property so served.

The proceeds from the collection of the fees and charges shall be placed in the general 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 general fund.

**10.0309 Fees - Payment - Collection by Franchised Contractor**

In the event the city elects to franchise a contractor to perform the collection services contemplated by this section, collection of fees, limited as set out in this section, are to be made by the contractor. Failure to pay fees billed by the contractor within fifteen (15) days of billing and reporting of the failure to pay to the city shall release the contractor from collection responsibility regarding the delinquent premises. On being notified of delinquencies the city may avail itself of any or all of the collection provision of Section 10.0308.

**10.0310 Disposal of Refuse Not Collected by the City**

All other wastes as defined, and not included under garbage, rubbish and ashes, may be disposed of by the person creating such waste, by hauling such waste for disposal to such points as are designated or approved by the City Health Officer; or, such person may arrange with some person not in their employ to collect or haul such

wastes to such points as are designated by the City Health Officer. Hauling done by or for an individual may only be done in a covered container or covered truck box.

Any disposal in areas not designated by the city health officer such as dumping over the fence or outside the fenced areas of the city dump grounds shall be an offense of not less than Fifty and No/100 ($50.00) or greater than Five Hundred and No/100 ($500.00).

**10.0311 Supervision**

The collection, removal and disposal of garbage and rubbish under the provisions of this article, shall be under the supervision, direction and control of the City Auditor with the assistance of the City Health Officer .The City Auditor 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 governing body.

**10.0312 Rules and Regulations**

The Health Officer of the city shall prescribe such reasonable rules and regulations in connection with the preparation, handling and disposition of garbage and rubbish as may be necessary to regulate, enforce and carry out the provisions of this chapter. He may direct that the city garbage and rubbish collection crews shall not collect garbage and rubbish from any premises where such rules and regulations are not complied with and the failure to collect the same shall not relieve the owner or occupant of the premises from the payment of fees nor from the enforcement of the penalties of this code. In the absence of city collection crews the Health Officer may give instructions to a franchised contractor.

**10.0313 Designated Yard Waste Disposal Area**

A designated area for lawn waste is provided for the citizens of Wilton. Only grass, leaves and decomposable garden waste are permitted in this area.

Logs, tree and bush branches, trunks, and stumps are prohibited in the lawn waste disposal area.
Violations shall be punishable by a fine of not less than Fifty and No/100 ($50.00) or greater than Five Hundred and No/100 ($500.00).

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Violations shall be punishable by a fine of not less than Fifty and No/100 ($50.00) or greater than Five Hundred and No/100 ($500.00).

**Article 4: Dangerous Buildings**

**10.0401 Dangerous Buildings Defined**

1. Those which have parts thereof which are so attached that they may fall and injure members of the public property.
2. Those which because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this City.
3. Those buildings existing in violation of any provision of the building code, fire prevention code, electrical or plumbing codes or of other ordinances of this city.

**10.0402 Standards for Repairs. Vacation or Demolition**

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

1. If the "dangerous building" can be reasonably repaired so that it will no longer exist in violation of the terms of this article it shall be ordered repaired.
2. If the "dangerous building• is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupant it shall be ordered to be vacated.
3. If any case where a "dangerous building" is fifty percent (50%) 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.

**10.0403 Dangerous Buildings – Nuisances**

All "dangerous buildings" within the terms of Section 10.0401 of this article are hereby declared to be public nuisances and shall be repaired, vacated or demolished as hereinbefore and hereinafter provided.

**10.0404 Duties of Building Inspector**

The Building Inspector shall be the (usually the City Fire Chief) and he shall:

1. Inspect or cause to be inspected semiannually, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing or loft buildings for the purpose of determining whether any conditions exist which render such places a "dangerous building" within the terms of Section 10,0401 of this article.

2. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article.
3. Inspect any building, wall or structure reported (as hereinafter provided for) by the Fire or Police Departments of this City as probably existing in violation of the terms of this article.
4. Notify in writing the owner, occupant, lessee, mortgagee and all other persons having an interest in said building, as shown by the records in the office of the Register of Deeds of the Counties of McLean and Burleigh, or any building found by him to be a "dangerous building" within the standards set forth in Section 10.0401 of this article that: (a) the owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this article; (b)the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession. Provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, no exceeding thirty (30)days as may be necessary to do, or have done, the work or act required by the notice provided for herein .
5. Set forth in the notice provided for in subsection 4 hereof, a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a "dangerous building" and an order requiring the same to be put in such condition •as to comply with the terms of this ordinance within such length of time, not exceeding thirty (30) days, as is reasonable,
6. Report to the City Council any noncompliance with the "notice" provided for in subsections 4 and 5 hereof.
7. Appear at all hearings conducted by the Wilton City Council and testify as to the conditions of "dangerous buildings".
8. Place a notice on all "dangerous buildings" reading as follows: "This building has been found to be a dangerous building by the Building Inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee or mortgagee of this building and all other persons having an interest in said building as shown by the records of the Register of Deeds of the County of McLean or Burleigh. It is unlawful to remove this notice until such notice is complied with.

**<u>10.0405 Duties of the Wilton City Council</u>**

The Wilton City Council shall:

1. Upon receipt of a report of the Building Inspector as provided for in Section 10.0404, subsection 6 hereof, give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the Register of Deeds of the County of McLean or Burleigh, to appear before it on the date specified in

the notice to show cause why .the building or structure reported to be a "dangerous building" should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building Inspector's notice provided for herein in Section 10.0404, subsections.

2. Hold a hearing and hear such testimony as the Building Inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the Register of Deeds of the County of McLean or Burleigh shall offer relative to the "dangerous building".
3. Make written findings of fact from the testimony offered pursuant to subsection 2 as to whether or not the building in questions is a "dangerous building" within the terms of section 10,0401 hereof.
4. Issue an order based upon findings of fact made pursuant to subsection 3 commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the Register of Deeds of the County of McLean or Burleigh, 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 or either vacating or repairing said "dangerous building".

**10.0406 Failure to Comply with Decision of the Council**

If the owner, occupant, mortgagee or lessee fails to comply with the order of the Council or fails to appear to the District Court within thirty (30) days ae 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 Council and shall cause the costs of such repair, vacation or demolition to be charged against the land on which said building existed by special assessment, or as a municipal lien, or shall cause said cost of removal to be levied as a special tax against the land upon which said building stands or did stand or to be recovered in a suit at law against the owner .

**10.0407 Violations - Penalty for Disregarding Notices or Orders**

The owner of any "dangerous building" who shall fail to comply with any notice or order to repair, vacate or 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 and no/100 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 above stated shall be deemed a separate offense .

The occupant or lessee in possession who fails to comply with any notice to vacate or who fails to repair said building in accordance with any notice given as provided for in this article shall be

guilty of an infraction and upon conviction thereof shall be fined not exceeding Five Hundred and no/100 Dollars ($500.00) for each offense and every day subsequent to such notice in which the said occupant or lessee shall fail to comply with any notice or order as above stated, shall be deemed a separate offense.

Any person removing the notice provided for in Section 10.0404, subsection 8 thereof shall be guilty of an infraction and upon conviction shall be fined not exceeding Five Hundred and no/100 Dollars ($500.00) for each offense.

**10.0408 Duties of the City Attorney**

The City Attorney shall:

1. Prosecute all persons failing to comply with the terms of the notices provided for herein in Section 10.0404, subsections 4 and 5 and the order provided for in Section 10.0405, subsection 4.
2. Appear at all hearings before the Wilton City council in regard to "dangerous buildings".
3. Take such other legal action as is necessary to carry out the terms and provisions of this article.

**10.0409 Where Owner Absent from the City**

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the city, all notice or orders provided for herein shall be sent by registered or certified mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the land records of the Register of Deeds of the County of McLean or Burleigh to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service.

**10.0410 Duties of Fire, Police and Health Departments**

All employees of the Fire, Police and Health Departments shall make written reports to the Building Inspector of all buildings or structures which are, may be, or are suspected to be "dangerous buildings" as herein defined.

**10.0411 Appeal**

The governing body shall serve upon the owner, occupant, mortgagee, lessee and all other persons having an interest in such building so ordered repaired, vacated or demolished, a ·copy of its order, such notice to be served upon such owner, occupant, mortgagee or lessee shall thereafter have thirty (30)days from the date of the service of such order upon him in which to

appeal from such order to the District Court of McLean or Burleigh County, North Dakota, to take such other legal steps to enjoin the enforcement of such order as he may deem proper.

Any person desiring to appeal from any order issued by the Council under and by virtue of this article shall file an undertaking in the sum of at least Five Hundred and no/100 Dollars ($500.00) to be approved by the City Auditor and conditioned that the appellant will prosecute the appeal without delay and will pay all costs that may be adjudged against him in the District Court. Such undertaking shall be payable to the City.

**APPENDIX 10-1**

IN THE MATTER OF "DANGEROUS BUILDINGS" LOCATED AT WILTON, NORTH DAKOTA
UNDER ARTICLE 4, CHAPTER TEN

NOTICEOFHEARING
You are hereby notified that the Building Inspector of Wilton, North Dakota, has filed with the Wilton City Council a report that you have not complied with a Notice and Order Issued by him 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 Wilton City Council at the City Hall on the _____ day of _____, 20__, at the hour of _____ o'clock PM to show cause, if any you have, why said building reported to be a "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 WILTON, NORTH DAKOTA
Attest:

By _____
Mayor

_____
CityAuditor

# CHAPTER ELEVEN - ANIMAL AND FOWL

## Article 1: General Regulations

### 11.0101 Cruelty - Penalty

No person. shall cruelly treat any animal in the city in any way; any person who inhumanly beats, underfeeds, overloads or abandons any animal shall be deemed guilty of an offense for which the maximum penalty shall be a fine of Five Hundred and No/100 Dollars ($500.00), thirty (30)days imprisonment, or both such fine and imprisonment.

### 11.0102 Dangerous Animals

It shall be unlawful to permit any dangerous animal or vicious animal of any kind to run at large within the city: exhibitions or parades of animals which are ferae naturae in the eyes of the law may be conducted only upon securing a permit from the Chief of Police. It shall also be unlawful to keep or harbor within the City of Wilton any dangerous animal without first having obtained a permit to keep or harbor such animal from the Chief of Police.

### 11.0103 Permit - When Issued

The Chief of Police shall have discretion as to whether or not to issue a permit pursuant to Section 11.0102. If the Chief of Police shall refuse to issue a permit, his decision may be appealed to the governing body. No permit shall be issued without first obtaining a description of the animal, the name of the owner or person in charge, the purpose for which the animal is kept, and such other pertinent information as the Chief of Police shall determine. Any dangerous animal kept or allowed to run at large without the owner or keeper having first obtained a permit in compliance with this section is hereby declared a nuisance and the owner or keeper shall be guilty of a violation of this article.

### 11.0104 Killing Dangerous Animals

The members of the Police Department or any other person in the city, are authorized to kill any dangerous animals of any kind when it is necessary for the protection of any person or property.

### 11.0105 Diseased Animals

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

It is hereby made the duty of the Health Officer to secure such disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagion or infection, except in cases where the state veterinarian is empowered to act.

**11.0106 Housing**

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

**11.0107 Keeping of Certain Animals Prohibited**

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

**11.0108 Strays**

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

**11.0109 Noises**

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

**11.0110 Penalty**

Any person who shall violate the provisions of this article for which a specific penalty is not otherwise provided shall be guilty of an infraction for which the maximum penalty is a fine of Five Hundred and No/100 Dollars ($500.00). 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 shall be released to the owner.

**Article 2: Dogs and Cats**

**11.0201 License Required**

No dog or cat shall be permitted to be or remain in the city without being licensed as herein after provided if over six month of age. It shall be the duty of the owner or keeper of any dog or cat to have the dog or cat inoculated by a licensed veterinarian against rabies and to license such dog or cat. No license shall be issued unless the dog or cat has been inoculated against rabies and proof thereof is shown to the person issuing the license.

**11.0202 Licensing Procedures and Terms**

All dogs and cats shall be registered as to sex, breed, name and address of owner and name of animal. Licenses shall be issued by the City Auditor The person paying the license fee shall receive a receipt therefore and a metal tag or badge with which to mark the animal. It shall be the duty of the owner or keeper to cause such license tag or badge to be securely attached around the animal's neck or be able to produce the tag if required.

**11.0203 License Fee**

The license fee shall be a one-time fee of $15.00 for each male or female dog and each male or female cat. The owner or keeper will still be required to keep the animals' rabies vaccination current for the life of the animal.

A refund may not be made on any license fees because of the death of an animal or because the owner of the animal leaves the city before expiration of the license period. A license is not transferable. If an animal is sold or given to another, the new owner must obtain a new license for the animal.

**11.0204 Impound Fee**

The impound fee shall be $15.00 first offense and $5.00 per day; second offense $30.00 and $10.00 per day.

**11.0205 License Fee: When Due and Payable**

The license fee 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 February in each year. If the fee is not paid before the 1st day of May a penalty of $5.00 shall be added to the license or renewal fee.

**11.0206 Dog or Cat Running At large Prohibited**

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

**11.0207 Disposition of Unlawful Dogs or Cats**

Any unlicensed dog or cat running at large may be taken up by any police officer and impounded at the city dog pound, or such other place as may be designated by the governing body. The dog or cat shall not be released to any person until such dog or cat is licensed (if unlicensed), a fee of $5.00 is paid for the taking of such animal, and all pound charges are paid directly to the facility where the dog or cat is housed.

**11.0208 Disposition of Unclaimed Dog 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 claims the animal within three days of notification the animal may be destroyed. If the owner or keeper is unknown, the Chief of Police shall give public notice of the taking of the animal before it is destroyed or otherwise disposed of.

**11.0209 Return to Owner if Known**

Notwithstanding the provisions of Section 11.0207, if a dog or cat is found at large and its owner can be identified and be taken to the owner. In such case, the policeman or other officer may proceed against the owner or keeper for violation of this article.

**11.0210 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 howling, barking, whining, meowing or making other disagreeable noise. Any person wishing to file a complaint shall be required to give his name and address and sign a complaint.

**11.0211 Nuisance – When**

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

**11.0212 Number of Animals**

It shall be unlawful for any resident to have more than a total of three dogs or cats, four months of age or older.

**11.0213 Penalty**

Any person violating any provision of this article shall be guilty of any infraction and be fined not to exceed Five Hundred and N0/100 Dollars ($500.00), and shall be fined not less than Ten - and No/100 Dollars ($10.00).

**Article 3: Pet Solid Waste - Collection and Disposal**

**11.0301 Pet Solid Waste- Collection and Disposal**

Every owner or person having control of a dog or cat shall collect and properly dispose of the dogs or cats solid waste when eliminated. It is an offense subject to a fee of twenty-five ($25.00) for a first time offense and fifty dollars ($50.00) for every subsequent offense to allow a dog or cat to eliminate solid waste on another's private property without permission, or upon boulevards, parks, school property, or other property used for educational purposes, and fail to properly collect and dispose of such waste. Prosecution for such offense may only be brought upon complaint signed by the person who observed the violation.

**Article 4: An Ordinance Pertaining to Dangerous and Vicious Dogs**

**11.0401 Definitions**

As used in this article, the following words shall have the meanings respectively ascribed to them:

At Large: Off the premises of the owner and not under control either by leash, cord or chain of maximum of six (6) feet in length.

Dog: Both male and female

Owner: Any person owning, keeping or harboring a dog.

**11.0402 Dangerous, Vicious Dogs At large Prohibited.**

No dog of dangerous, vicious or fierce propensities or tendencies may be at large at any time within the limits of the city, and it shall be unlawful for the owner or other person having any such dog in his or her possession or under his or her control, or in any manner keeping or harboring any such dog within the limits of the city, to cause or permit any such dog to be at large in the city.

If any dog bites or attempts to bite any person while such dog is at large, then such dog shall be conclusively presumed to be a dangerous dog and a dog of dangerous propensities and tendencies.

If any dog attacks or attempts to attack any other dog or other animal while such dog is at large, or chases or otherwise attempts to catch a person, then such dog shall be conclusively presumed to be a vicious dog and to have vicious propensities and tendencies.

**11.0403 Destruction of Dangerous, Vicious Dog**

Any dangerous or vicious dog having dangerous or vicious propensities and tendencies found at large after the owner thereof has previous knowledge or notice that such dog is dangerous or vicious or had dangerous or vicious propensities and tendencies, may be killed by any police officer of the city without such officer having to catch or impound the dog.

**11.0404 Penalty**

The following fees shall be charge for violations of any dog under the provisions of this division:

1. First violation of animal $250.00
2. Second violation of animal Animal will be removed.

**11.0405 Severability**

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

**Article 5: Pitt Bulls and Rottweiler's**

An ordinance pertaining to the keeping of Pit Bull dogs and Rottweiler dogs within the corporate limits of the City of Wilton, North Dakota.

Be it ordained by the City of Wilton, North Dakota:

**11.0501 – Purpose**

In order to protect the health, safety and welfare of the residents and citizens of the City of Wilton, the Board of City Commissioners of the City of Wilton do hereby enact the following provisions:

**11.0502 - Pit Bull Dogs and Rottweiler Dogs: Keeping Prohibited.**

It shall be unlawful to keep, harbor, own or in any way possess with the corporate limits of the City of Wilton, North Dakota.

1. "Pit Bull dog" is defined to mean:
   a. The bull terrier breed of dog;
   b. Staffordshire bull terrier breed of dog;
   c. The American Pit Bull terrier breed of dog;
   d. The American Staffordshire terrier breed of dog;
   e. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as Pit Bull, Pit Bull dogs, or Pit Bull terriers;
   f. Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terriers, Staffordshire bull terriers, American Pit Bull terrier, American Staffordshire terrier, any other breed commonly known as Pit Bulls, Pit Bull dogs or Pit Bull terriers, or a combination of any of these breeds.

2. "Rottweiler dog" is defined to mean"
   a. The Rottweiler breed of dog;
   b. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as Rottweiler dog or Rottweiler dogs.
   c. Any dog which has the appearance and characteristics of being predominantly of the breed of Rottweiler, any other breed commonly known as Rottweiler or any combination of these breeds.

**11.0503 – Terms**

1. Owner - is defined to include someone who keeps or harbors a Pit Bull dog or Rottweiler.
2. Disability - means a disability as that term is defined by the Americans With Disabilities Act of 1990 (ADA).
3. Pit bull service dog - means a pit bull dog that is individually trained as a service animal to do work or perform tasks as a service animal, as defined by the ADA.

4. Pit bull assistance or support dog - means a pit bull dog that assists, supports or provides services to a person with a disability, or an animal that is necessary as a reasonable accommodation to assist, support or provide services to a person with a disability.
5. Rottweiler service dog - means a Rottweiler dog that is individually trained as a service animal to do work or perform tasks as a service animal, as defined by the ADA.
6. Rottweiler assistance or support dog - means a Rottweiler dog that assists, supports or provides services to a person with a disability, or an animal that is necessary as a reasonable accommodation to assist, support or provide services to a person with a disability

**11.0504 – Exemptions**

The prohibition on keeping or possessing Pit Bulls and Rottweilers within the city shall not apply to the following specific exception:

1. A person with a disability may keep or possess a Pit Bull or Rottweiler service dog or a Pit Bull or Rottweiler assistance or support dog to the extent mandated by the ADA, Fair Housing Act or other federal or state law.
2. A person entitled to keep or possess a Pit Bull or Rottweiler service dog or a Pit Bull or Rottweiler assistance or support dog under this exception may do so only if the person complies at all times with the following:
   a. City dog license and inoculation requirements;
   b. The dog may not be destructive, annoying or a nuisance as defined in 11.0210, 11.0211 or other city ordinance.

**11.0505 – Penalty**

1. Failure to Comply: Any dog found to be subject of a violation of this ordinance shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license and such animal resulting in the immediate removal of the animal from the City.

2. Violations and Penalties: Any person violating or permitting the violation of any provisions of this ordinance shall upon conviction in Municipal Court be fined a sum not more than $500.00. In addition to the fine imposed the Court may sentence the defendant to imprisonment in the count jail for a period not to exceed thirty (30) days. Each day that a violation of this ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary and testimony necessitated by the enforcement of this ordinance.
3. Severability: If any section, sentence clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not effect the validity of the remaining portions of this ordinance.

**11.0506 – Effective Date**

This ordinance shall take effect and be in full force from and after the 6th day of September 2017.

# CHAPTER TWELVE - PUBLIC NUISANCES

## Article 1: Sanitary Nuisances

### 12.0101 Residence - When Sewer and Water Required

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

The term "proper connections" when used in this section shall be construed to mean connections with such 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 and sanitary toilets and drains and such equipment shall at all times be kept in repair and in a manner so as to make them available for household use and in condition to be used at all seasons of the year.

### 12.0102 Outhouses - Cesspools - A Nuisance

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

### 12.0103 Outhouses - Cesspools – Exceptions

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

### 12.0104 Outhouses - Cesspools - Offensive Odors

It shall be unlawful for the owner or occupant of any lot or piece of ground within the corporate limits of this city to suffer or 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, and any private sewer system emitting such odor is hereby declared to be a nuisance and menace to public health of the city.

**12.0105 Outhouses - Cesspools - Cleaning of**

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

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

**12.0106 Dead Animals**

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

**12.0107 Water Pools - Putrid Substances**

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

**Article 2: Smoke-Gases**

**12.0201 Smoke, Dust, Ashes, Gases, Cinders - 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 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, and the maintenance, use or operation within said 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 common nuisance.

### 12.0302 Loud, Disturbing, Unnecessary Noises – Prohibited

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

1. The sounding of horns or signaling devices on any motor vehicle or motorcycle on any street or public place except as a danger warning or their sounding for an unnecessary and unreasonable period of time.
2. Radios, phonographs, etc. 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 operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of fifty (5O) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
3. Loudspeakers, amplifiers for advertising. The use, operating or permitting to be played, used or operation of 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 commercial advertising or attracting the attention of the public to any building or structure.
4. Yelling, shouting, etc. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 P.M .and 7:00 A.M., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

5. Schools, courts, churches, hospitals. 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 in such streets indicating that the same is a school, hospital or court street.

**Article 4: Automobiles - Personal Property**

**12.0401 Automobiles, Personal Property - When a Nuisance**

Unsheltered storage of old, used, stripped, junked and other automobiles not in good, safe operating condition, and of any other vehicles, machinery implements and/or equipment and personal property of any kind which is no longer safe 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 the city, is hereby declared to be a nuisance and dangerous to public safety and shall be abated in the manner prescribed in this article

**12.0402 Abatement Required by Owners**

The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of this city upon which such storage is made, and also the owner, owners and/or lessees of 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 personal property into completely enclosed buildings authorized to be used for storage purposes, if within the corporate limits of the city, or otherwise to remove it to a location outside of corporate limits.

**12.0403 Abatement Required - Penalty for Failure**

If 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 and No/100 Dollars ($25.00), nor more than Five Hundred and No/100 Dollars ($500.00) or each infraction and a separate infraction shall be deemed committed on each day during or on which such nuisance is permitted to exist.

**12.0404 Removal and Impoundment by City**

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

**12.0405 Removal and Impoundment - When Sold**

If not reclaimed and redeemed by the true owner or the person lawfully entitled to the possession thereof within a period of thirty (30) days after impounding, any article of personal property described in 12.0401 may be sold and disposed of ·by the Police Department in the manner hereinafter provided. Notice that such property will be sold shall be published once, at least 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 the Chief of Police. Such sale shall be held between the hours of 9:00 o'clock A.M .and 5:00 o'clock P.M. 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. The Chief of Police shall give the purchaser at such sale a certificate of purchase of such property.

**12.0406 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 a full report of such sale specifying the property sold, the amount received therefore, the amount of costs and expenses, the disposition made by him of the proceeds of the sale. The proceeds arising from such sale shall be delivered over to the City Auditor and credited to the general fund.

**Article 5: Noxious Weeds**

**12.0501 Definition**

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

**12.0502 Weeds Prohibited**

No owner of any lot, place or area within the City or the agent of such owner, shall permit on such lot, place or area and the one-half of any road or street lying next to the lands or boulevards abutting thereon noxious weeds or other deleterious, unhealthful growths.

**12.0503 Notice to Destroy**

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

**12.0504 Action Upon Non-Compliance**

Upon the failure, neglect, or refusal of any owner or agent so notified to cut, destroy and/or remove noxious weeds growing, lying or located upon the owner's property or upon the one-half of any road or street lying next to the lands or boulevards abutting thereon after receipt of the written notice provided for in 12.0503 above or within five days after the date of such notice in the event the same is returned to the City Post Office Department because of inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the health officer is hereby authorized and empowered to pay for the cutting, destroying, and/or removal of such noxious weeds or to order their removal by the City.

**12.0505 Cost Assessed to Property**

When the City has effected the removal of such noxious weeds or has paid for their removal, the actual cost thereof, if not paid by said owner prior thereto, · shall be charged and assessed against the property upon which the noxious weeds were cut or destroyed. An assessment list

showing the lots or tracts to be assessed with the cost against each lot or tract shall be prepared as are other special assessment lists, and shall be approved by the governing body and shall bear interest at seven percent. Such assessments shall be subject to the same procedure for certification to the county auditor, payment and collection as are other special assessments under state law.

## Article 6: Weed And Mowing Control Program

### 12.0601 Definition

As used in this article.

*Control* shall mean to prevent the spread of any noxious weed, designated by the weed and mowing control officer, by seed or any other propagating part, and mowing of grasses in excess of eight (8) inches.

*Control authority* shall mean the weed and mowing control officer and such officer's assistants, and the board of the city commissioners.

*City weed and mowing board* shall mean members of the board of city commissioners, acting as such.

*Eradicate or eradication* shall mean to destroy a plant so that it is not viable.

*Landowner* shall mean any owner of federal, state, municipal or private land, under statutory authority or otherwise, but does not include a lessee, renter, tenant, operator or an owner of any easement or right-of-way.

*Noxious weed* shall mean any plant propagated by either seed or vegetative parts which is determined by the weed and mowing control officer after consulting with the state cooperative extension service, or the city weed and mowing board after consulting with the county extension agent, to be injurious to public health, land or other property.

*Operator* shall mean the person chiefly responsible for or in possession of the land, whether for self-benefit, or for the benefit of the landowner or another.

*Person* shall mean any individual, partnership, firm, corporation, company, society, association, the state, or any department, agency or subdivision thereof or any other entity which occupies or owns land or which causes noxious weed seeds or propagating parts to be disseminated or transported in North Dakota.

*Weed and mowing control officer* shall mean the person or persons appointed or designated by the board of city commissioners and or the city commissioners to be responsible for the operation and enforcement of this article within the city.

**12.0602 Control and eradication of noxious weeds and mowing of grasses.**

It shall be the duty of every person in charge of or in possession of land in this city, whether as landowner, lessee, renter or tenant, to eradicate or to control the spread of noxious weeds on those lands and mow grasses in excess of eight (8) inches.

**12.0603 Notice to Destroy or Mow**

The weed and mowing control officer is hereby authorized and empowered, through personal contact, by telephone, letter or other means to notify the owner or the agent of such owner or any lot, place or area within the city, to cut, destroy and remove any noxious weeds found growing, lying or located on such owners property or upon the one-half (1/2) of any road or street lying next to the lands or boulevards abutting thereon and/or to mow weeds or grasses in excess of eight (8) inches high. Lots or property in excess of one (1) acre need not be mowed if such lot and the lot or property within twenty (20) feet of the right-of-way edge of a paved road or street is mowed in conformance with this article so that the grasses do not exceed (8) inches in height. The notice, shall give the owner or his agent a minimum of five (5) days to mow grasses and cut or destroy the noxious weeds. The weed and mowing control officer may cause to be posted or inserted in the official newspaper for the city such official notices as the officer may deem necessary in the furtherance of this chapter.

**12.0604 Action Upon Non-Compliance**

Upon the failure, neglect or refusal of any owner or agent so notified to mow and/or cut, destroy and remove noxious weeds growing, lying or located upon the owner's property or upon the one- half (1/2) of any road or street lying next to the lands or boulevards abutting thereon, after contact and notice provided for by this article, or within five (5) days after the date of any letter containing such notice is returned to the city because of inability to make delivery thereof, provided the letter was properly addressed to the last known address of such owner or agent, or if the weed and mowing control officer is unable to contact the owner or agent by telephone after reasonable effort, the weed and mowing control officer may pay for the cutting, destroying and removal of such noxious weeds or order their removal by the city. In the event the noxious weeds cannot be effectively cut, destroyed or removed or the lot mowed because of an accumulation of junk, rubble, debris or other matter upon the property, the weed and mowing control officer may arrange for the removal of the junk, rubble, debris or matter in order to place the property in a condition which will allow the effective removal of the noxious weeds.

**12.0605 Cost Assessed to Property**

When the city has effected the mowing and/or removal of noxious weeds or has paid for their removal, the actual cost thereof, including any necessary costs for placing the property in a condition to allow the effective mowing and/or removal of the noxious weeds, will be charged

to the property owner at a rate no less than one hundred dollars ($100) per instance and if not paid by said owner prior thereto, shall be charged and assessed against the property upon which the grasses were mowed and/or the noxious weeds were cut or destroyed. An assessment list showing the lots or tracts to be assessed with the cost against each lot or tract shall be prepared as are other special assessment lists, and shall be approved by the city commission. Such assessments shall be subject to the same procedure for certification to the county auditor, payment and collection as are other special assessments under state law.

**Article 7: Regulating the Accumulation of Junk**

**12.0701 Definition**

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

1. The term Junk" shall include, without limitation, trash, rubbish, 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.
2. The term Junk automobiles" shall include, without limitation, any motor vehicle which is not licensed for use upon the highways of the state of North Dakota for a period in excess of 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 60 days; provided that there is excepted from this definition unlicensed, but operative, vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer.
3. The term "abandoned vehicle" shall include, without limitation, any vehicle which has remained on private property for a period of 48 continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of 48 continuous hours or more after the consent of the owner or occupant has been revoked.
4. The term "blighted structure" shall include, without limitation, any dwelling, garage, or outbuilding, or any factory, shop, store, warehouse or any other structure or part of a structure which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended.
5. The term "building materials" shall include, without limitation, lumber, bricks, concrete or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, or cement, nails, screws, or any other materials used in constructing any structure.
6. The term "person" shall include all natural persons, friends, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this ordinance, whether as owner, occupant, lessee, agent, servant or employee shall, except as herein otherwise provided, be equally liable as principals.
7. The terms "trash" and "rubbish'' shall include any and all forms of debris and waste material not herein otherwise classified.

**12.0702 Storage of junk, junk automobiles. etc.--Contrary to public health and safety-Nuisance.**

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 of Wilton is a nuisance and 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.

**12.0703 Unlawful to store or accumulate junk automobiles, abandoned vehicles or to abandon vehicles**

1. 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 of Wilton except within a completely enclosed building or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts.
2. No person shall abandon any vehicle upon a street, highway, alley or other public roadway.
3. No person shall abandon any vehicle upon any public or private property without the express or implied consent of the owner or person in lawful possession or control of the property for purposes of this section, a vehicle shall be presumed to be abandoned if it is left unattended on a highway, alley, or other public roadway, for a period in excess of 48 hours; or on any public or private property without the express or implied consent of the owner or person in lawful possession or control of the property, for a period in excess of 48 hours. Also see Ordinance 9.1410.
4. Any police officer who has reasonable grounds to believe that a vehicle has been abandoned may remove the vehicle, or cause it to be removed, at the expense of the owner, to the nearest garage or other place of safety.
5. In the event a vehicle is not reclaimed by the registered owner or any lien holder within 90 days, the laws of this state governing the disposition of abandoned property shall apply and the property shall be disposed of in accordance therewith.

**12.0704 Unlawful to dismantle automobile except on business premises**

It shall be unlawful for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, whether or not the same be 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.

**12.0705 Unlawful to maintain blighted structure**

It shall be unlawful for any person to keep or maintain any blights or vacant structure, dwelling, garage, outbuilding, factory, shop, store, or warehouse unless the same is kept securely locked, the windows kept glazed or neatly boarded up, and otherwise protected to prevent entrance thereto by unauthorized persons or unless such structure is in the course of construction in accordance with a valid building permit issued by the city of Wilton, and unless such construction is completed within a reasonable time.

**12.0706 Unlawful to store building materials except on business premises**

It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property, except in a completely enclosed building or except where such building materials are part of the stock in trade of a business located in said property, or except when such materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the city of Wilton, and unless such construction is completed within a reasonable time (one year from issue of permit).

**12.0707 City may remove junk automobiles or abandoned vehicles**

Notice to property owner -The city may remove or cause to be removed any junk, junk automobile or abandoned vehicle, or parts of either, from any public or private property after having notified, in writing, the owner or occupant of such property of its intention to do so at least 30 days prior to such removal. Such notice shall identify the property to be removed and the real property upon which it is located and shall state further that if it is not removed by the owner within 30 days, it will be removed by the city and the cost thereof will be assessed against the real property described in the "notice".

The notice may be served personally upon the owner or occupant of the property; or may be served by regular mail addressed to the same person and to the same address as is designated to receive the real estate tax notice for the property. If such junk or junk automobiles, or parts of either, have not been removed by the owner within the time specified, it shall be removed by the city and taken to a location appropriate to store such items. Such removal by the city shall not excuse or relieve any person of the obligation imposed by this ordinance to keep his property free from storage or accumulation of junk, junk automobiles or abandoned vehicles, or parts of either, nor from the penalties for violation thereof.

**12.0708 Appeal to city commission**

In the event the property owner disagrees with the determination of the city and the notice for removal, the property owner may appeal to the board of city commissioners by filing with the city Auditor, a notice of appeal, in writing. Such appeal must be filed within fourteen (14) days

of receipt of the notice for removal and before the deadline within which the owner is otherwise required to remove the junk, junk automobile, and/or abandoned vehicle.

**12.0709 Junk automobiles and abandoned vehicles--Transfer to other property**

In the event that any junk, junk automobiles or abandoned vehicles are identifiable and are moved or transferred from one parcel of real property to another (within the city limits) after receipt of the notice provided for in this article, a new notice shall not be required and the identifiable junk, junk automobiles or abandoned vehicles may be removed by the city as provided in this article and the costs assessed against the property upon which it was located at the time the notice was given.

**12.0710 Abatement of nuisance—Penalty**

The cost of removal of any junk, junk automobiles and abandoned vehicles may be assessed against the property where said junk, junk automobiles and abandoned vehicles are located at the time the notice was issued. Such removal and assessment of costs shall not be deemed to be the exclusive remedy of the city. Violation of any of the provisions of this article is an infraction, punishable in accordance with the Wilton Ordinance. Each day of violation shall be deemed to be a separate infraction.

**12.0711 Firewood**

The term “firewood” shall include any wood or wood product used or intended to be used at a residence. Painted or treated wood shall not be considered firewood.

1. The firewood shall be cut/split, prepared for use and stored in neat secured stacks
2. All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of within ten (10) days and shall not be allowed to remain on the premises
3. The firewood shall be stored a minimum of four (4) inches off the ground and on a well-supported base. Firewood may be also be stored on a concrete slab or a solid foundation made of 2-inch thick paving blocks.
4. No firewood shall be stored that is rotting, infested with insects, harboring animals, containing diseased wood or otherwise causing a nuisance. A nuisance firewood pile may be enforced against or abated as provided in this chapter or Chapter 10 of this Code.

**12.0712 Nuisance**

Failure to comply with the provisions of Section 12.0711, herein contained shall constitute a public nuisance and be punishable as such under the terms of Chapter 10 and Chapter 12 of these ordinances.

# CHAPTER THIRTEEN - OFFENSES

## Article 1: In General

### 13.0101 Criminal Contempt

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

### 13.0102 Hindering Proceedings by Disorderly Conduct

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

### 13.0103 Fleeing or Attempting to Elude a Police Officer

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

**13.0104 Interference with Officers**

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

**13.0105 False Alarms or False Reports**

No person in the City shall intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or aid or abet in the commission of such act. No person in the City shall make to, or file with, the police department of the City any false, misleading or unfounded statement or report concerning the commission or alleged commission of any crime occurring in the City.

**Article 2: Offenses Against Persons**

**13.0201 Simple Assault**

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

**13.0202 Sexual Assault**

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:

1. That person knows or has reasonable cause to believe that the contact is offensive to the other person;
2. 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;

3. 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;
4. 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;
5. 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
6. The other person is a minor, fifteen years of age or older, and the actor is an adult. (Source: North Dakota Century Code section 12.1-20-07).

**13.0203 Harassment**

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

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

**Article 3: Offense Against Property**
**Division 1. Property Destruction and Criminal Intrusion**

**13.0301 Criminal Mischief – Penalty**

A person is guilty of an offense if that person:

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

Conduct is punishable as criminal mischief under this ordinance when pecuniary loss, if Intentionally caused, is not in excess of one hundred dollars ($100.00); 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.

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

**13.0302 Tampering with or Damaging a Public Service**

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

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

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

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

1. Whenever it is an element of the offense that the property is of another, it is a defense to a prosecution under those sections that the other has consented to the actor's conduct with respect to the property.

2. Property is that "of another" if anyone other than the actor has a possessory or proprietary interest therein. (Source: North Dakota Century Code sections 12.1-21-07 and 12.1-21-08(2)).

**13.0304 Criminal Trespass**

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

**Division 2. Theft and Related Offenses**

**13.0305 Consolidated Theft Offenses**

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

**13.0306 Theft of Property**

A person is guilty of theft if that person:

1. Knowingly takes or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another with intent to deprive the owner thereof;
2. Knowingly obtains the property of another by deception or by threat with intent to deprive the owner thereof, or intentionally deprives another of his property by deception or by threat; or

3. Knowingly receives, retains or disposes of property of another which has been stolen, with intent to deprive the owner thereof. (Source: North Dakota Century Code section 12.1-23-02).

**13.0307 Theft of Services**

A person is guilty of theft if:

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

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

**13.0308 Theft of Property Lost, Mislaid or Delivered by Mistakes**

A person is guilty of theft if the person:

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

**13.0309 Thefts Punishable Under City Ordinances**

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

1. The theft was not committed by threat;

2. The theft was not committed by deception by one who stood in a confidential or fiduciary relationship to the victim of the theft;
3. The defendant was not a public servant or an officer or employee of a financial institution who committed the theft in the course of official duties;
4. The property stolen is not a firearm, ammunition, explosive or destructive device, or an automobile, aircraft or other motor-propelled vehicle;
5. The property does not consist of any government file, record, document or other government paper stolen from any government office or from any public servant;
6. The defendant is not in the business of buying or selling stolen property and he does not receive, retain or dispose of the property in the course of that business;
7. The property stolen does not consist of any implement, paper or other thing uniquely associated with the preparation of any money, stamp, bond or other document, instrument or obligation of the State of North Dakota;
8. The property stolen does not consist of livestock taken from the premises of the owner;
9. The property stolen does not consist of a key or other implement uniquely suited to provide access to property the theft of which would be a felony or was not stolen to gain such access.
10. The property stolen is not a card, plate, or other credit device existing for the purpose of obtaining money property, labor, or services on credit, or is a debit card, electronic fund transfer card, code or other means of access to an account for the purpose of initiating electronic fund transfers. (Source: North Dakota Century Code section 12.1-23-05).

**13.0310 Defrauding Secured Creditors – Penalty**

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

**13.0311 Retail Theft – Shoplifting**

1. Presumption. Any person concealing upon that person's person or among that person's belongings, or causing to be concealed upon the person or among the belongings of another, unpurchased merchandise displayed, held, offered or stored for sale in a retail mercantile establishment and removing it to a point beyond the last station for receiving payments in that retail mercantile establishment shall be prima facie presumed to have so concealed such merchandise with the intention of permanently depriving the merchant of possession or of the full retail value of such merchandise. (Source: North Dakota Century Code section 51-21-02)

2. Detention of Suspect – Procedure. Any peace officer or merchant who reasonably believes that a person has committed, or is in the process of committing theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:
   a. To require the person to identify himself;
   b. To verify such identification;
   c. To determine whether such person has in the person's possession unpurchased merchandise and, if so, to recover such merchandise;
   d. To inform a peace officer of the detention of the person and surrender custody of that person to a peace officer;
   e. In the case of a minor, to inform a peace officer, the parents, guardian or other private person interested in the welfare of that minor of this detention and to surrender custody of said minor to the person informed. (Source: North Dakota Century Code section 51-21-03)
   3. Definitions. As used in this section, unless the context requires otherwise:
   a. An item is "concealed" within the meaning of this section if, even though there is some notice of its presence, the item itself is not visible through ordinary observation.
   b. "Full retail value" means the merchant's stated or advertised price of the merchandise.
   c. "Merchandise" means any item of tangible personal property and specifically includes shopping carts.
   d. "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, franchise or independent contractor or such owner or operator.
   e. "Person" means any natural person or individual.
   f. "Premises of a retail mercantile establishment" includes, but is not limited to, the retail mercantile establishment, any common use areas in shopping centers, and all parking areas set aside by a merchant, or on behalf of a merchant for the parking of vehicles for the convenience of the patrons of said retail mercantile establishment.
   g. "Retail mercantile establishment" means any place where merchandise is displayed, held, offered or stored for sale to the public.
   h. "Shopping cart" means those push carts of the type or types which are commonly provided by grocery stores, drugstores or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and, incidentally, from the stores to a place outside the store. (Source: North Dakota Century Code section 51-21-01)

4. Theft of unpurchased merchandise, displayed, held, offered or stored for sale in a mercantile establishment from that establishment when open for business is "shoplifting" for which the offender may be assessed a penalty upon conviction not exceeding one thousand dollars ($100.00), imprisonment of thirty (30) days, or both such fine and imprisonment. (Source: North Dakota Century Code section 40-05-06).

**13.0312 Defenses and Proof as to Theft and Related Offenses**

1. It is a defense to a prosecution under this Article that:
    a. The actor honestly believed that he had a claim to the property or services involved which he was entitled to assert in the manner which forms the basis for the charge against him; or
    b. The victim is the actor's spouse, but only when the property involved constitutes household or personal effects or other property normally accessible to both spouses and the parties involved are living together. The term 'spouse', as used in this section includes persons living together as husband and wife.
2. It does not constitute a defense to a prosecution for conducts constituting an offense in violation of this article that:
    a. Stratagem or deception, including the use of an undercover operative or law enforcement officer, was employed;
    b. A facility or an opportunity to engage in such conduct, including offering for sale property not stolen as if it were stolen, was provided; or
    c. Mere solicitation that would not induce an ordinary law-abiding person to engage in such conduct was made by a law enforcement officer to gain evidence against a person predisposed to engage in such conduct.
3. It is a prima facie case of theft under this Article if it is shown that a public servant or an officer, director, agent, employee of, or a person connected in any capacity with a financial institution has failed to pay or account upon lawful demand for money or property entrusted to him as part of his official duties or if an audit reveals a shortage or falsification of his accounts.
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.
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 induce of ownership other than mere possession,

unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen. (Source: North Dakota Century Code section 12.1-23-09).

**13.0313 Definitions**

In this Article:

1. "Dealer in property" means a person who buys or sells property as a business.
2. "Deception" means:
    a. Creating or reinforcing a false impression, including false impressions as to fact, law, status, value, intention or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not substantially perform the promise unless it is part of a continuing scheme to defraud; or
    b. Preventing another from acquiring information which would affect his judgment of a transaction; or
    c. Failing to correct a false impression which the actor previously created or reinforced, or which he knows to be influencing another to whom he stands in fiduciary or confidential relationship; or
    d. Failing to correct an impression which the actor previously created or reinforced and which the actor knows to have become false due to subsequent events; or
    e. Failing to disclose a lien, adverse claim, or other impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained or in order to continue to deprive another of his property, whether such impediment is or is not valid, or is or is not a matter of official record; or
    f. Using a credit card, charge plate or any other instrument which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer (i.) where such instrument has been stolen, forged, revoked or canceled, or where for any other reason its use by the actor is unauthorized, and (ii.) where the actor does not have the intention and ability to meet all obligations to the issuer arising out of his use of the instrument; or
    g. Any other scheme to defraud. The term "deception" does not, however, include falsifications as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. "Puffing" means an exaggerated commendation of wares in communications addressed to the public or to a class or group.
3. "Deprive" means:

a. To withhold property or to cause it to be withheld either permanently or under such circumstances that a major portion of its economic value, or its use and benefit, has, in fact, been appropriated; or
b. To withhold property or to cause it to be withheld with the intent to restore it only upon the payment of a reward or other compensation; or
c. To dispose of property or use it or transfer any interest in it under circumstances that make its restoration, in fact, unlikely.

4. "Fiduciary" means a trustee, guardian, executor, administrator, receiver or any other person acting in a fiduciary capacity, or any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary.
5. "Financial institution" means a bank, insurance company, credit union, safety deposit company, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.
6. "Obtain" means:

a. In relation to property, to bring about a transfer or purported transfer of an interest in the property, whether to the actor or another; or
b. In relation to services, to secure performance thereof.

7. "Property" means any money, tangible or intangible personal property, property (whether real or personal) the location of which can be changed (including things growing on, affixed to, or found in land and documents although the rights represented thereby have no physical location), contract right, chose-in-action, interest in or claim to wealth, credit or any other article or thing of value of any kind. "Property" also means real property, the location of which cannot be moved if the offense involves transfer or attempted transfer of an interest in the property.
8. "Property of another" means property in which a person other than the actor or in which a government has an interest without consent, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person or government might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another that has a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security agreement. "Owner" means any person or a government with an interest in property such that it is "property of another" as far as the actor is concerned.
9. "Receiving," means acquiring possession, control or title, or lending on the security of the property.
10. "Services" means labor, professional service, transportation, telephone, mail or other public service, gas, electricity and other public utility services, accommodations in hotels, restaurants, or elsewhere, admission to exhibitions, and use of vehicles or other property.

11. "Stolen" means property which has been the subject of theft or robbery or a vehicle which is received from a person who is then in violation of North Dakota Century Code Section 12.1-23-06.
12. "Threat" means an expressed purpose, however communicated, to:
    a. Cause bodily injury in the future to the person threatened or to any other person; or
    b. Cause damage to property; or
    c. Subject the person threatened or any other person to physical confinement or restraint; or
    d. Engage in other conduct constituting a crime; or
    e. Accuse anyone of a crime; or
    f. Expose a secret or publicize an asserted fact, whether true or false, tending to subject a person living or deceased, to hatred, contempt or ridicule or to impair another's credit or business repute; or
    g. Reveal any information sought to be concealed by the person threatened; or
    h. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
    i. Take or withhold official action as a public servant, or cause a public servant to take or withhold official action; or
    j. Bring about or continue to strike, boycott or other similar collective action to obtain property or deprive another of his property which is not demanded or received for the benefit of the group which the actor purports to represent; or
    k. Cause anyone to be dismissed from his employment, unless the property is demanded or obtained for lawful union purposes; or
    l. Do any other act which would not in itself substantially benefit the actor or a group he represents but which is calculated to harm another person in a substantial manner with respect to his health, safety, business, employment, calling, career, financial condition, reputation or personal relationship. Upon a charge of theft, the receipt of property in consideration for taking or withholding official action shall be deemed to be theft by threat regardless of whether the owner voluntarily parted with his property or he initiated the scheme.
13. Traffic" means:
    a. To sell, transfer, distribute, dispense or otherwise dispose of to another person; or
    b. To buy, receive, possess or obtain control of, with intent to sell, transfer, distribute, dispense or otherwise dispose of to another person. (Source: North Dakota Century Code section 12.1-23-10)
14. "Dealer in property" means a person who buys or sells property as a business

**13.0314 Making or Uttering Slugs**

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

## Article 4: Offenses Against Public Order, Health, Safety and Sensibilities

### Division 1. Riot

**13.0401 Engaging in a Riot**

A person is guilty of an offense if that person engages in a riot.

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

**13.0402 Disobedience of Public Safety Orders Under Riot Conditions**

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

### Division 2. Disorderly Conduct

**13.0403 Disorderly Conduct**

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:

1. Engages in fighting or in violent, tumultuous or threatening behavior;
2. Makes unreasonable noise;
3. In a public place, uses abusive or obscene language, or makes an obscene gesture;
4. Obstructs vehicular or pedestrian traffic, or the use of a public facility;
5. Persistently follows a person in or about a public place or places;
6. While loitering in a public place for the purpose of soliciting sexual contact, the individual solicits such contact;
7. Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose; or
8. Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person. (Source: North Dakota Century Code Section 12.1-31-01).

**13.0404 Defense when Conduct Consist of Constitutionally Protected Activity**
Ordinance 13.0403 does not apply to constitutionally protected activity. If an individual claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim, as a matter of law, and, if found valid, shall exclude evidence of the activity. (Source: North Dakota Century Code section 12.1-31-01 (2)).

**Division 3. Gambling**

**13.0405 Gambling**

It shall be an infraction to engage in gambling.

"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:

1. Lawful contests for skill, speed strength or endurance in which awards are made only to entrants or to the owners of entries; or
2. Lawful business transactions or other acts or transactions now or hereafter expressly authorized by law.

"Gambling apparatus" means any devise, machine, paraphernalia or equipment that is used or usable in playing phases of any gambling activity, whether that activity consists of gambling between persons, or gambling by a person involving the playing of a machine. Gambling apparatus does not include an amusement game or device as defined in North Dakota Century Code Section 53-04-01, or an antique "slot" machine twenty-five (25) years old or older which is collected and possessed by a person as a hobby and is not maintained for the business of gambling.

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**
A person is guilty of the offense of prostitution if that person:

1. Is an inmate of a house of prostitution or is otherwise engaged in sexual activity as a business;
2. Solicits another person with the intention of being hired to engage in sexual activity; or:
3. Agrees to engage in sexual activity with another for money or other items of pecuniary value.

Testimony of a person against his or her spouse shall be admissible to prove offenses under this section involving the spouse's prostitution.

In this section:

1. A "house of prostitution" is any place where prostitution if regularly carried on by a person under the control, management or supervision of another.
2. An "inmate" is a prostitute who acts as such in or through the agency of a house of prostitution.
3. "Sexual activity" means sexual act or sexual contact as those terms are defined in North Dakota Century Code section 12.1-20-02. (Source: North Dakota Century Code sections 12.1-29-03, 12.1-29-04, 12.1-29-05)

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

**Division 5. Sunday Business or Labor**

**13.0408 Business or Labor on Sunday**
Except as otherwise provided in this section, it is a class B misdemeanor for any person between the hours of twelve midnight and twelve noon on Sunday to engage in or conduct business or labor for profit in the usual manner and location, operate a place of business open to the public, or authorize or direct that person's employees or agents to take action prohibited under this section. This subsection does not apply to any person who in good faith observes a day other than Sunday as the Sabbath, if that person refrains from engaging in or conducting business or labor for profit and closes the place of business to the public between the hours of twelve midnight and twelve noon on the day observed as the Sabbath. (Source: North Dakota Century Code Section 12.1-30-01)

Except for items sold at hobby shows, craft show, fairs, exhibits, occasional rummage sales including garage sales or other sales for which a sales tax permit is not required, and tourist attractions that derive at least fifty percent (50%) of their annual gross sales from seasonal or tourist customers, the sale or rental of any of the following items between the hours of twelve midnight and twelve noon on Sunday is prohibited:

1. Clothing other than work gloves and infant supplies;
2. Clothing accessories;
3. Wearing apparel other than that sold to a transient traveler under emergency conditions;
4. Footwear;
5. Headwear;
6. Home, business, office or outdoor furniture;
7. Kitchenware;
8. Kitchen utensils;
9. China;
10. Home appliances;
11. Stoves;
12. Refrigerators;
13. Air conditioners;
14. Electric fans;
15. Radios;
16. Television sets;
17. Washing machines
18. Dryers;
19. Cameras;
20. Hardware other than emergency plumbing, heating, cooling or electrical repair or replacement parts and equipment;
21. Tools other than manually driven hand tools;
22. Jewelry;
23. Precious or semiprecious stones;
24. Silverware;
25. Watches;
26. Clocks;
27. Luggage;
28. Motor vehicles other than the daily rental of vehicles by business whose sole activity is automobile rental;
29. Musical instrument
30. The sale of audio or video recordings, records or tapes. Rental of these items is permitted,

31. Toys other than those customarily sold as novelties or souvenirs;
32. Mattresses;
33. Bed coverings;
34. Household linens;
35. Floor coverings;
36. Lamps;
37. Draperies;
38. Blinds
39. Curtains;
40. Mirrors;
41. Cloth piece goods;
42. Lawnmowers;
43. Sporting or recreational goods other than those sold or rented on the premises where sports or recreational activities are conducted;
44. Paint and building and lumber supplies.

(Source: North Dakota Century Code section 12.1-30-02)

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

1. Restaurants, cafeterias or other prepared food service organizations;
2. Hotels, motels and other lodging facilities;
3. and nursing homes, including the sale of giftware on the premises;
4. Dispensaries of drugs and medicines;
5. Ambulance and burial services;
6. Generation and distribution of electric power, water, steam, natural gas, oil or other fuel used as a necessary utility;
7. Distribution of gas, oil and other fuels;
8. Telephone, telegraph and messenger services;
9. Heating, refrigeration and cooling services;
10. Railroad, bus, trolleys, subway, taxi and limousine services;
11. Water, air and land transportation services and attendant facilities;
12. Cold store warehouse;
13. Ice manufacturing and distribution facilities and services;
14. Minimal maintenance of equipment and machinery;
15. Plant and industrial protection services;

16. Industries where continuous processing or manufacturing is required by the very nature of the process involved.
17. Newspaper publication and distribution;
18. Newsstands;
19. Radio and television broadcasting;
20. Motion picture, theatrical and musical performances;
21. Motor vehicle service stations that sell motor fuel and motor oil, and that customarily provide daily repair services or products for any of the following systems or parts of a motor vehicle:
    a. Air conditioning system;
    b. Batteries
    c. Electrical system;
    d. Engine cooling system
    e. Exhaust system;
    f. Fuel system;
    g. Tires and tubes;
    h. Emergency work necessary for the safe and lawful operation of the motor vehicle.
22. Athletic and sporting events;
23. Parks, beaches and recreational facilities;
24. Scenic, historic and tourist attractions;
25. Amusement centers, fairs, zoos and museums;
26. Libraries;
27. Educational lectures, forums and exhibits;
28. Service organizations (USO, YMCA, etc.);
29. Coin-operated laundry and dry-cleaning facilities;
30. Food stores operated by an owner or manager in addition to not more than six employees working in the store at one time on a Sunday; (Note: the governing body of a city may, by ordinance increase the number of employees)
31. shops for the sale of live bait and fishing tackle;
32. Floral nurseries;
33. Christmas tree stands;
34. Hobby shows, craft shows, fairs, exhibits;
35. Occasional rummage sales, including garage sales or other sales for which a sales tax permit is not required;
36. Community festivals licensed or authorized by the governing body of a city or the board of county commissioners;
37. Premises licensed to dispense beer and alcoholic beverages within the limits prescribed in North Dakota Century Code Sections 5-02-05 and 5-02-05.1.

38. Credit apparel services, lodging and travel reservation services, and, notwithstanding subsection 2, telemarketing of goods and services.
39. Bingo halls and onsite food concessions between the hours of twelve midnight and one a.m. and within the hours permitted under 13.0408(1). (Source: North Dakota Century Code Section 12.1-30-03)

**Division 6. Cruelty to Animals**

**13.0409 Cruelty to Animals**

1. It is an offense for any person to:

1. Overdrive, overload, torture, cruelly beat, neglect or unjustifiably injure, maim, mutilate or kill any animal, or cruelly work any animal when unfit for labor;
2. Deprive any animal over which he has charge or control of necessary food, water or shelter;
3. Keep any animal in any enclosure without exercise and wholesome change of air;
4. Abandon any animal;
5. Allow any maimed, sick, inform or disabled animal of which he is the owner, or of which he has custody, to lie in any street, road or other public place for more than three (3) hours after notice;
6. 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.
7. Cage any animal for public display except as allowed by North Dakota Century Code Section 36-21.1-02(8);

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 cause or permitted. (Source: North Dakota Century Code sections 36-21.1-01 and 36-21-02)

**Division 7. Alcohol Related Offenses**

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

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.

Except as permitted in this Section, any licensee who dispenses alcoholic beverages to a person under twenty-one (21) years of age, or who permits such a person to remain on the licensed premises while alcoholic beverages are being sold or displayed, is guilty of an offense, subject to the provisions of sections 5-01-08, 5-01-08.1 and 5-01-08.2 of the North Dakota Century Code. An individual under twenty-one (21) years of age may not remain in a restaurant where alcoholic beverages are being sold except if the restaurant is separate from the room in which alcoholic beverages are opened or mixed and gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area or except as otherwise provided by North Dakota Century Code section 5-02-06. Any person who is nineteen years of age or older but under twenty-one years of age may be employed by the restaurant to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person twenty-one or more years of age, but may not be engaged in mixing, dispensing, or consuming alcoholic beverages. Any establishment where alcoholic beverages are sold may employ persons from eighteen (18) to twenty-one (21) years of age to work in the capacity of musicians under the direct supervision of a person twenty-one (21) or more years of age. (Source: North Dakota Century Code sections 5-01-08 and 5-02-08).

**13.0411 Misrepresentation of Age – Obligations of Licenses**

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

**13.0412 Bottle Clubs Prohibited**

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

**13.0413 Public Intoxication – Assistance – Medical care**

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

**13.0414 No Prosecution for Intoxication**

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

Division 8. Protection of Minors

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

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.

As used in this section:

1. "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.

2. "Where minors are or may be invited as a part of the general public" includes any public roadway or public walkway.
3. The above shall not be construed to include a bona fide school, college, university, museum, public library or art gallery. (Source: North Dakota Century Code section 12.1-27.1-03.1)

**Article 5: Sentencing**

**13.0501 Classification of Offenses**

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

1. Offense, for which a maximum penalty of thirty (30) days imprisonment, a fine of one thousand dollars ($1,000.00), or both, may be imposed.
2. Infraction, for which a maximum fine of five hundred dollars ($500.00) may be imposed. Any person convicted of an infraction who has, within one year prior to commission of the infraction of which he was convicted, been previously convicted of an offense classified as an infraction in state statutes or the ordinances of this or any other North Dakota city may be sentenced as though convicted of an offense. If the prosecution contends that the infraction is punishable as an offense, the complaint shall so specify unless the prosecution is unable with reasonable effort to learn of the prior conviction prior to execution of the complaint.
3. All violations of the provisions of the Ordinances of this city are offenses unless specifically labeled infractions or unless a different classification or punishment is specifically authorized.
4. The penalties listed shall not be construed to prohibit the utilization of the sentencing alternatives, other than a fine or imprisonment, provided by section 12-1-32-02 of the North Dakota Century Code and Section 13.0502, for the violation of a city ordinance, nor does this section limit the use of deferred or suspended sentences.
5. (Source: North Dakota Century Code sections 12.1-32-01 and 40-05-06).

**13.0502 Sentencing Alternatives**

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:

1. Payment of the reasonable costs of the person's prosecution;
2. Probation;
3. A term of imprisonment, including intermittent imprisonment;
4. A fine;
5. Restitution for damages resulting from the commission of the offense;
6. Restoration of damaged property or other appropriate work detail;
7. Commitment to an appropriate licensed public or private institution for treatment of alcoholism, drug addiction or mental disease or defect.

8. 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.

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.

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.

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.

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.

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.

If an offender is sentenced to a term of imprisonment, that term of imprisonment commences at the time of sentencing, unless, upon motion of the defendant, the court orders the term to commence at some other time. (Source: North Dakota Century Code section 12.1-32-02).

**13.0503 Procedure for Trial of Infraction – Incidence**

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.

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.

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.

If an ordinance provides that conduct is an infraction without specifically including a requirement of culpability, no culpability is required.

Except as provided in this Section, Sections 13.0501 or 13.0502, or as the context may otherwise indicate differentiation between the infraction classification and the offense classification, the term “offense” refers to all violations of the ordinances of this city including infractions. (Source: North Dakota Century Code section 12-32-03.1)

**13.0504 Special Sanction for Organizations**

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

**13.0505 Factors to be Considered in Sentencing**

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

1. The defendant's criminal conduct neither caused nor threatened serious harm to another person or his property.
2. The defendant did not plan or expect that his criminal conduct would cause or threaten serious harm to another person or his property.
3. The defendant acted under strong provocation.
4. There were substantial grounds which, though insufficient to establish a legal defense, tend to excuse or justify the defendant's conduct.
5. The victim of the defendant's conduct induced or facilitated its commission.
6. The defendant has made or will make restitution or reparation to the victim of his conduct for the damage or injury, which was sustained.
7. The defendant has no history of prior delinquency or criminal activity, or has led a law-abiding life for a substantial period of time before the commission of the present offense.
8. The defendant's conduct was the result of circumstances unlikely to recur.
9. The character, history and attitudes of the defendant indicate that he is unlikely to commit another crime.
10. The defendant is particularly likely to respond affirmatively to probationary treatment.
11. The imprisonment of the defendant would entail undue hardship to himself or his dependents.
12. The defendant is elderly or in poor health.
13. The defendant did not abuse a public position of responsibility or trust.
14. The defendant cooperated with law enforcement authorities by bringing other offenders to justice, or otherwise cooperated.

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

**13.0506 Imposition of Fine – Response to Non-Payment**

The court, in making a determination of the propriety of imposing a sentence to pay a fine, shall consider the following factors:

1. The ability of the defendant to pay without undue hardship;
2. Whether the defendant, other than a defendant organization, gained money or property as a result of commission;
3. Whether the sentence to pay a fine will interfere with the defendant's capacity to make restitution;
4. Whether a sentence to pay a fine will serve a valid rehabilitative purpose.

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.
If the defendant does not pay any fine or costs imposed, or make any required partial payment, the courts, upon motion of the prosecuting attorney or on its own motion, may issue an order to show cause why the defendant shows that his default is excusable, the court may, after hearing, commit him to imprisonment until the fine, or costs or both, are fully paid or discharged by labor as provided in North Dakota Century Code section 40-18-12.

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

**13.0507 Incidents of Probation**

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.

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.

Notwithstanding the fact that a sentence to probation can subsequently be modified or revoked, a judgment, which includes such a sentence, constitutes a final judgment for all other purposes. (Source: North Dakota Century Code section 12.1-32-06.1)

**13.0508 Conditions of Probation – Revocation**

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.

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:

1. Work faithfully at a suitable employment or faithfully pursue a course if study or of vocational training that will equip the defendant for suitable employment;
2. Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose;
3. Attend or reside in a facility established for the instruction, recreation or residence of persons on probation;
4. Support the defendant's dependents and meet other family responsibilities;
5. Make restitution or reparation to the victim of the defendants for the damage or injury, which was sustained, or perform other reasonable assigned work. When restitution, reparation or assigned work is a condition of probation the court shall proceed as provided in Section 13.0509;
6. Pay a fine imposed after consideration of the provisions of Section 13.0506;
7. Refrain from excessive use of alcohol, or any use of narcotics or of another dangerous or abusable drug without a prescription.
8. Permit the probation officer to visit the defendant at reasonable times at the defendant's home or elsewhere.
9. Remain within the jurisdiction of the court, unless granted permission to leave by the court or the probation officer.
10. Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.
11. Report to a probation officer at reasonable times as directed by the court or the probation officer.
12. Submit to a medical examination or other reasonable testing for the purpose of deterring the defendant's use of narcotics, marijuana, or other controlled substance whenever required by a probation officer.
13. Refrain from associating with known users or traffickers in narcotics, marijuana, or other controlled substances.
14. 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.
15. 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.
16. 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.
17. Provide community service for the number of hours designated by the court.
18. Refrain from any subscription to, access to, or use of the Internet.

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.
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.

Jurisdiction over a probationer may be transferred from the court that imposed the sentence to another court of this state, with the concurrence of both courts. Retransfer of jurisdiction may also occur in the same manner. The court to which jurisdiction has been transferred under this subsection may exercise all powers permissible under this chapter over the defendant.
(Source: North Dakota Century Code section 12.1-32-07).

**13.0509 Restitution or Reparation – Procedures**

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:

1. 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;
2. 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;
3. The likelihood that attaching a condition relating to restitution or reparation will serve a valid rehabilitation purpose in the case of the particular offender considered.

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

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

**13.0510 Merger of Sentences – Sentencing for Multiple Offenses**

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.

A defendant may not be consecutively sentenced to more than one year. (Source: North Dakota Century Code section 12.1-32-11).

## Article 6: Penalties

**Penalty for Violation of Chapter**

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

# CHAPTER FOURTEEN - FRANCHISE

## Article 1: Grant of Franchise

### 14.0101 Power to Grant

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

### 14.0102 Compliance with Applicable Laws and Ordinances

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

### 14.0103 Indemnification

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

### 14.0104 Insurance

Any grantee of a franchise by the City shall carry and keep in force a public liability policy of insurance, insuring the grantee of the franchise and the City against any and all liability, of not less than fifty thousand dollars ($50,000.00) property damage, One Hundred thousand dollars ($100,000.00) for any one person, personal injury or death, and Two Hundred Thousand and No/100 Dollars ($100,000.00) and Two Hundred Thousand and No/100 ($200,000.00) for any one accident resulting in personal injury, or death. The City may demand proof of such insurance coverage in an insurance company licensed to do business in the State of North Dakota.

# 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 of Wilton shall meet with the provisions of the rules and regulations of the 2014 edition of the North Dakota State Building Code 1 Copy of which code is on file with the City Auditor and are hereby made a part of this chapter by reference with exceptions if 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 code as so modified.

### 15.0102 Amendments, Deletions, Additions to Code

Sec. _____ shall be amended to read as follows:
Sec. _____ shall be deleted.
Sec. _____ shall be added to said code to read as follows;

### 15.0103 Clarification of Code

For this purpose of clarifying the Building Code adopted above.

1. "Municipality" or "City" shall mean the City of Wilton.
2. Whenever the Building Code shall conflict with the zoning ordinances, the zoning ordinances shall govern.
3. Any reference to fire limits within the city shall mean the fire limits set out in Chapter IV.

### 15.0104 Fees

Fees under the Building Code shall be as follows:

For work valued at less than $1,000.00, the fee shall be _____. And for work valued at $1,000.00 and over, there shall be ab additional fee of _____ for each additional $1,000.00 of the valuation or fraction thereof in excess of $1,000.00.

**15.0105 Penalties**

The violation of any of the provisions of this chapter shall be punishable as provided in Chapter II if this code.

# CHAPTER SIXTEEN - FIREWORKS

## Article 1- Fireworks

### 16.0101 Definition

The term fireworks means any combustible or explosive composition, or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation. The term includes any blank cartridge, toy pistol, toy cannon, toy cane, or toy gun in which an explosive other than a toy paper cap is used; balloon that requires fire underneath to propel the balloon; firecracker, torpedo, skyrocket, Roman candle, daygo bomb, sparkler, or other item of like construction; item containing any explosive or flammable compound; or tablet or other device containing any explosive substance. This section does not apply to any toy paper cap containing not more than twenty-five hundredths of a grain (16.20 milligram) of explosive composition per cap.

### 16.0102 Sale and Use of Fireworks Prohibited, Exceptions

The prohibition of this section shall not apply to the use by and sale to persons twelve years of age or more; from June 27th to July 5th and December 26th to January 1st. Sale shall be limited to those items permitted for retail sale by Section 23-15-01 of the North Dakota Century Code, except that the use or explosion of fireworks commonly known as bottle rockets is prohibited.

The explosion of fireworks permitted by ordinance shall be prohibited except between the hours of 9:00 AM and 11:00 PM from June 27th thru July 3rd and July 5th. The explosion of fireworks is permitted on July 4th between the hours of 9:00 AM and 12:00 PM (midnight).

## Article 2- Penalty for Violation of this Chapter

### 16.0201 Penalty

Violation of this section will be considered an offense, for which a maximum penalty of thirty (30) days imprisonment, a fine of Five Hundred Dollars ($500.00), or both may be imposed.

# CHAPTER SEVENTEEN - CURFEW

## Article 1- Curfew

### 17.0101 Minors Forbidden to be on Streets During Certain Hours

It is unlawful for persons under the age of eighteen (18) years to loiter, idle, wander, stroll, play in or upon, or ride about in a vehicle or be in or upon the public streets, highways, roads, alleys, or public buildings, places or grounds between the hours of ten o'clock p.m. and five o'clock a.m. weekdays and midnight and 5 o'clock a.m.

This section does not apply to persons accompanied by a parent, guardian or other adult person having their care and custody, or to persons upon emergency errands, or legitimate business directed by their parent, guardian, or other adult person having their care and custody, or persons traveling to or from a location outside the city on legitimate business or consent of a parent or guardian. This section also does not apply to a person in attendance at, or traveling between that person's home and a place of legitimate employment or an event or activity sponsored by or associated with a 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 conclusion of the event or activity.

### 17.0102 Duty of Parents

It shall be unlawful for any parent, guardian or other person having the legal care and custody of any person under eighteen (18) years of age to allow or permit any such person under such age, while in such legal custody, to go to be in or upon any of the streets, alleys, parks or public placed in the City of Wilton within the time prescribed by, or contrary to, the provisions of this section.

### 17.0103 Penalty

Any person violating the provisions of this code shall, upon conviction thereof, be punished by a fine according to city ordinance with a minimum of twenty-five dollars ($25.00) and a maximum of five hundred dollars ($500.00) or by imprisonment to exceed thirty (30) days, or both.

# CHAPTER EIGHTEEN - MANUFACTURED HOMES

An ordinance to emend and re-enact sections of the Zoning Ordinance of the City of Wilton, North Dakota, Relating to Manufactured Homes,

Be it ordained by the Board of City Commissioners of Wilton, North Dakota:

Section 1.

Amendment: The definitions contained in the zoning ordinance and other ordinances of the City are hereby amended and re-enacted to read as follows.

**Dwelling – Single Family**
A building containing only one dwelling unit designed to be located on a permanent foundation and, if site built, constructed in accordance with the provisions of the applicable City codes governing constructions; or, of manufactured off site, constructed in accordance with either the City codes governing construction or the HUD manufactured home construction and safety standards (24 CFR 3280). All single-family dwellings shall be considered and taxed as real property, as provided by law. Each single-family dwelling shall have a minimum front width of twenty-four (24) feet, minimum overall depth of twenty-four (24) feet, a minimum main floor living space square footage of one thousand (1,000) square feet, and a minimum ceiling height of seven (7) feet, six (6) inches. Each structure shall be designed for perimeter wall support.

**Manufactured Home**
A factory built structure which is to be used as a place for human habitation, which is NOT constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280) which became effective June 15, 1976, promulgated by the United States Department of Housing and Urban Development.

**Mobile Home**
A transportable, factory built home, designed to be used as a year-round residential dwelling and built prior to enactment of the Federal Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280), compliance with Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280) which became effective June 15, 1976. A mobile or portable structure constructed to be towed on its own chassis, connected to utilities and used

for a year-round living. It can consist of one or more units separately towable but designed to be joined into one integral unit.

Section 2.

Repeal – All ordinances or part of ordinances in conflict with this ordinance are hereby repealed.

Section 3.

Severability - If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or jurisdiction, such decision shall bot effect the validity of the remaining portions of this ordinance.

Section 4.

Effective Date – The effective date shall be upon the final passage and adoption.

Final passage and adoption – May 7, 1997

# CHAPTER NINETEEN - STREET NAME CHANGE

Ordinance providing for a method to change or make a correction of street name.

BE IT ENACTED by the City Commission of the City of Wilton, North Dakota, as follows:

Change or Correction of Street Names

The Board of City Commissioners may, by resolution, change the name of any street within the City of Wilton if it finds that such name is confusing, in error, or otherwise inconsistent with the other street names within the City. All property owners in the street being considered for a change of name shall be notified at least 10 days before the Board of City Commissioners considers the resolution changing the name of the street. Upon passage of a resolution changing the name of a street, a copy of the resolution along with a map detailing the change shall be filed with the register of deeds.

# CHAPTER TWENTY - SALES AND USE TAX

BE IT ORDAINED BY THE CITY COMMISSION) OF THE CITY OF WILTON, BURLEIGH & MCLEAN COUNTY, NORTH DAKOTA:

**SALES, USE, AND GROSS RECEIPTS TAX**

**Section 1:**

**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 amendments adopted by the North Dakota Legislative Assembly.

**Section 2:**

**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, a tax of (2%) percent 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 Wilton, North Dakota.

**Section 3:**

**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 excise tax is imposed upon the storage, use, or consumption within the corporate limits of the city of Wilton, North Dakota of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of (2%) percent of the purchase price of the property. An excise tax is imposed on the storage, use, or consumption within the corporate limits of the city of Wilton, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in this city at the rate of (2%) percent 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 tax imposed by this section applies only to bids submitted on or after the effective date of this Ordinance.

**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, a gross receipts tax of (2%) percent 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 tax on storage, use, or consumption of those alcoholic beverages at the rate of (2%) percent.

**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, a gross receipts tax of (2%) 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 (2%) percent.

**Section 4:**

**Exemptions.**
In addition to the exemptions provided by state law, this Ordinance provides exemptions from imposition and computation of the city sales or use tax for sales of the following:

1. 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 chapter.

**Section 5:**

**Maximum Tax Imposed.**
Any patron or user paying a tax imposed by this Ordinance in excess of fifty dollars ($50.00) upon any single transaction of one or more items may obtain a refund of the excess tax payment by filing a request for refund upon the forms provided by the Tax Commissioner.

**Section 6:**

**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 Dakota Office of State Tax Commissioner (hereinafter "Tax Commissioner") of the taxes imposed by this Ordinance.

**Section 7:**

**Contract with Tax Commissioner.**

The Wilton 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.

**Section 8**

**Corporate Officer Liability**

Officers of any corporation required to remit taxes imposed by this chapter are personally liable for the failure of the corporation to file required returns or 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.

**Section 9:**

**Deduction to Reimburse Retailer for Administrative Expenses.**

1. The retailer who pays the tax due hereunder within the time limitations prescribed may deduct and retain three percent (3%) of the tax due.
2. The aggregate of deductions allowed by this section may not exceed Two Hundred Fifty and no/100 Dollars ($250.00) per quarterly period for each business location required to remit sales tax hereunder.
3. The deduction allowed retailers by this section is to reimburse retailers for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the Auditor and Commissioner upon request.

**Section 10:**

**Dedication of Tax Proceeds.**

All revenues raised and collected under this ordinance shall be dedicated only to community development and infrastructure and economic development and infrastructure repairs and updates.

All revenue shall be maintained in the fund, to be known as the Wilton City Sales and Use Tax Fund, separate and apart from all other funds.

All revenue contained in such fund shall be used for:

1. Twenty percent (20%) for capital improvements and equipment.
2. Two and a half percent (2.5%) for city park maintenance.
3. Twenty percent (20%) for economic development.
4. Seven and a half percent (7.5%) for emergency fund for those items in which the city budget has already been exhausted. (i.e. snow removal and water line breaks).
5. Fifty percent (50%) for infrastructure repairs and updates within the City of Wilton.

**Section 11:**

**Dispersal of Funds.**

Funds collected from the two percent (2%) sales tax may only be dispersed by the Wilton City Commission upon recommendation of the Wilton Sales and Use Tax Committee, the membership of which shall be as follows:

1. Five (5) members that will serve four (4) year terms, except on the initial election when two (2) administrators will serve a two (2) year term and three (3) administrators will serve a four (4) year term, and hereafter to be elected in accordance with the general city elections. One (1) Sales and Use Tax Administrator may serve in a dual office as a Wilton City Commissioner. The Sales and Use Tax Administrators shall be the appointed Home Rule Commissioners until initial elections are held. Sales and Use Tax Administrators shall meet in accordance with the City Sales and Use Tax Ordinance and disperse funds as requested.

If a vacancy occurs in the membership of the Sales and Use Tax Committee, the Wilton City Commission shall appoint a person to fill such vacancy, provided such appointment does not violate the committee membership requirements, until the next city election, at which election the unexpired term shall be filled.

The City Commission shall accept the recommendation of the committee as to the utilization of these funds, provided the recommendations are for lawful purposes and in accordance with the terms of the ordinance.

Funds not dispensed each year shall accumulate in the sales and use tax fund and be allocated the following year or years in which justifiable products warrant.

All of the terms and provisions of the original Ordinance Relating to a Sales and Use Tax to the Home Rule Charter of the City of Wilton, not inconsistent with the above provisions, shall remain in full force and effect.

**Section 12:**

**Saving Clause.**

Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected thereby.

**Section 13**

**Penalties**

If any person fails to file a return or corrected return or to pau any tax within the time required by this chapter or, if upon audit, is found to owe additional tax, such person shall be subject to a penalty as established in Sections 57-39.2-18(1) of the North Dakota Century Code. Such penalty may be imposed by the Municipal Court of the City of Wilton or any other Court of competent jurisdiction.

The certificate of the Auditor, or where applicable, the North Dakota State Tax Commissioner to the effect that a tax has not been paid, that return has not been filed, or that information has not been supplied pursuant to the provisions of this chapter, shall be prima facie evidence thereof.

Any person failing to comply with any of provisions of this chapter of failing to remit within the time herein provided the tax due on any use, sale or purchase of tangible personal property subject to said sales and use tax shall in addition to penalties imposed hereinabove, be subject to a fine, upon conviction in the Municipal Court, not to exceed Five Hundred Dollars ($500.00).

**Section 14:**

**Effective Date.**

This Ordinance shall take effect after its passage, approval, and publication, but not prior to January 1, 2013.

Dated this 20 day of August, 2012.

# CHAPTER TWENTY-ONE - TRUCK ROUTE WITH IN THE CITY OF WILTON

The city Commission of the City of Wilton, North Dakota, does hereby ordain at follows:

Loaded truck or trucks with trailers within the city limits of the City of Wilton are restricted to the designated truck route. Trucks needing to travel within the city limits off of the designated truck route for purposes of pick-up and delivery of goods and serviced are allowed to do so however, drivers should respect and use the designated truck route whenever possible.

All recreational vehicles and passenger bused are exempt from truck route restrictions. Truck and trailer combination vehicles with actual weight not exceeding twenty-six thousand (26,000) pounds are also exempt from truck route restrictions.
The designated truck route of the City of Wilton is as follows

All of Seventh (7th) Street
All of Burleigh Avenue
All of Burleigh Road
Minnie Avenue from Seventh (7th) Street to Fifth (5th) Street
Whitman Avenue from Highway 83 to Seventh (7th) Street
Railway Street from Dakota Avenue to Burleigh Road
Dakota Avenue from East city limit line to First (1st) Street
First (1st) Street from Dakota Avenue to Burleigh Road

Moving violations of this ordinance of subject to a $40.00 fine.

Parking violations of this ordinance of subject to a $50.00 fine.

# Trees

An ordinance providing for the planting, trimming and care of trees, the control of disease in trees, the removal of unsound and diseased trees and the appointment of a tree board.
Be it ordained by the City Commission of the City of Wilton, North Dakota

**Section 1. – Definitions**
Street Trees: "Street trees" are herein defined as trees, shrubs, bushed ad all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

Park Trees: "Park trees" are herein defined as trees, shrubs, bushed ad 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.

**Section 2 – Separability**
Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

**Section 3 – Creation and Establishment of a City Tree Board:**
There is hereby created and established a City Tree Board of the City of Wilton, North Dakota, which shall consist of six members, citizens and residents of this City, who shall be appointed by the President of City Commission with the approval of the City Commission.

**Section 4 – Term of Office**
The term of the six persons to be appointed by the President of the City Commission shall be three years except that the term of two members appointed to the first board shall be for only one year and the term of two members of the first Board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

**Section 5 – Compensation**
Members of The Board shall serve without compensation

**Section 6 – Duties and Responsibilities**
It shall be the responsibility of the Board to study, investigate, council and develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in public ways, streets and alleys. Such plan will be presented annually to the City Commission and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of Wilton, North Dakota.
The City Tree Board, or its Agent, shall be responsible for the planting, pruning and removal of all trees located within the street right-of-ways, easement, alley and parks of the City. The owner of land abutting on any street may, when acting within the provisions of this ordinance, prune, spray, plant or remove trees in that part of the street abutting his land not used for public travel. A street tree permit shall be required only when the owner of the property intends to deviate from the rules and regulations contained in this ordinance.
The board, when requested by the City Commission shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

**Section 7 – Operations**
The board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

**Section 8 – Street Tree Species to Be Planted**
The following list constitutes the official Street Tree species for Wilton, North Dakota:

| | |
|---|---|
| Ash | Canada Red |
| Linden | Mountain Ash |
| Bur Oak | Flowing Ash |
| Hackberry | |

No species other than those included in this list may be planted as Street Trees without permission of the City Tree Board.

**Section 9 – Location and Spacing Of Trees**
The City Tree Board shall have the authority to regulate the location and spacing of trees planted in the City.

**Section 10 – Public Tree Care**
The City shall have the right to plant, trim, spray, preserve and remove trees, plants and shrubs within the lines of all streets, alley, avenues, lanes, squares, and public grounds, as may be necessary to insure safety when servicing City utilities or to preserve the symmetry and beauty

of such public grounds. The City Tree Board may remove or cause or order to be removed, any tree or part thereof which is 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.

**Section 11 - Trimming, Corner Clearance**

Every owner of any tree overhanging any street or right-of-way within the City shall trim the branched so that such branched shall not obstruct the light from an street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet (8') above the surface of the street right-of-way. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign, such trimming to be confined to the area immediately above the right-of-way.

**Section 12 – Dead or Diseased Tree Removal on Private Property**

The City shall have the right to cause the removal of any dead or diseased trees (trees infected with Dutch Elm disease fungus or other disease determined to be a nuisance by the City Tree Board), on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the City. The City Tree Board shall notify in writing the owners of such trees. Removal shall be done by said owner at their own expense within sixty days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

**Section 13 – Interference with City Tree Board**

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of his agents, or servants, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removal of any street trees, park trees, or trees on private grounds, as authorized in this ordinance.

**Section 14 – Review by City Commission**

The City Commission shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Commission who may hear the matter and make a final decision.

**Section 15 – Penalty**
Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty, subject to a fine not to exceed $500.00, and thirty (30) days in jail or both fine and imprisonment.

**Section 16 – Effective Date**
This ordinance shall take effect and shall be in force from and after its final passage and approval and publication of its title and penalty clause

First Reading: Feb.19, 1992
Second Reading and Final Passage: Mar. 4, 1992
Approved: Mar. 4, 1992
Published: Mar. 12, 1992